

Adopted	Rejected
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## COMMITTEE REPORT

YES:	8
NO:	6

### MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1309, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There is hereby created the
- 4 worker's compensation board of Indiana, which shall consist of seven
- 5 (7) members, not more than four (4) of whom shall belong to the same
- 6 political party, appointed by the governor, one (1) of whom ~~he~~ **the**
- 7 **governor** shall designate as ~~chairman~~ **chair. To be appointed as a**
- 8 **member of the board after June 30, 2004, including the chairman**
- 9 **of said board chair, a person** shall be an attorney of recognized
- 10 qualifications **admitted to the bar of Indiana for at least five (5)**
- 11 **years.**
- 12 (b) Each member of said board **appointed before July 1, 2004,**
- 13 shall hold office for four (4) years and until ~~his~~ **the member's**

1 successor is appointed and qualified. **A member of the board**  
 2 **appointed after June, 30, 2004, shall hold office for twelve (12)**  
 3 **years and until the member's successor is appointed and qualified.**

4 (c) Each member of the board shall devote ~~his~~ **the member's** entire  
 5 time to the discharge of the duties of ~~his~~ **the member's** office and shall  
 6 not hold any other position of trust or profit or engage in any  
 7 occupation or business. ~~interfering with or inconsistent with the~~  
 8 ~~discharge of his duties as such member.~~

9 (d) Any member of said board may be removed by the governor at  
 10 any time for incompetency, neglect of duty, misconduct in office, or  
 11 other good cause to be stated in writing in the order of removal. **The**  
 12 **performance of a board member appointed after June 30, 2004, is**  
 13 **subject to review at least every four (4) years by the performance**  
 14 **evaluation committee established by section 4 of this chapter.** In  
 15 case of a vacancy in the membership of the said board, the governor  
 16 shall appoint for the unexpired term.

17 (e) **A board member appointed after June 30, 2004, is entitled**  
 18 **to:**

19 **(1) a salary equal to the salary of a full-time superior court**  
 20 **judge; and**

21 **(2) the nonsalary benefits provided to judges under IC 33-13.**

22 **(f) Subject to subsection (l),** the budget agency, with the approval  
 23 of the governor, shall approve the salaries of the members of the board  
 24 and the secretary.

25 ~~(f)~~ **(g)** The board may appoint a secretary and may remove such  
 26 secretary. The secretary shall have authority to administer oaths and  
 27 issue subpoenas in connection with the administration of IC 22-3-2  
 28 through IC 22-3-7.

29 **(h) The board may appoint board ombudsmen and may remove**  
 30 **the board ombudsmen.**

31 ~~(g)~~ **(i)** The board, subject to the approval of the governor, may  
 32 employ and fix the compensations of such clerical and other assistants  
 33 as it may deem necessary.

34 ~~(h)~~ **(j)** The members of the board and its assistants shall be entitled  
 35 to receive from the state their actual and necessary expenses while  
 36 traveling on the business of the board, but such expenses shall be

1 approved by the chairman of the board before payment is made.

2 ~~(j)~~ **(k) Except as provided by subsection (l),** all salaries and  
3 expenses of the board shall be audited and paid out of the state treasury  
4 in the manner prescribed for similar expenses in other departments or  
5 branches of the state service.

6 **(l) The salaries of board members and the board ombudsmen**  
7 **appointed under subsection (h) must be paid out of the worker's**  
8 **compensation supplemental administrative fund established by**  
9 **IC 22-3-5-6 and audited in the manner prescribed for similar**  
10 **expenses in other departments or branches of the state service.**

11 SECTION 2. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The worker's compensation  
13 board may adopt rules under IC 4-22-2 to carry into effect the worker's  
14 compensation law (IC 22-3-2 through IC 22-3-6) and the worker's  
15 occupational diseases law (IC 22-3-7).

16 (b) The worker's compensation board is authorized:

17 (1) to hear, determine, and review all claims for compensation  
18 under IC 22-3-2 through IC 22-3-7;

19 (2) to require medical service for injured employees;

20 (3) to approve claims for medical service or attorney's fees and  
21 the charges for nurses and hospitals;

22 (4) to approve agreements;

23 (5) to modify or change awards;

24 (6) to make conclusions of facts and rulings of law;

25 (7) to certify questions of law to the court of appeals;

26 (8) to approve deductions in compensation made by employers for  
27 amounts paid in excess of the amount required by law;

28 (9) to approve agreements between an employer and an employee  
29 or the employee's dependents for the cash payment of  
30 compensation in a lump sum, or, in the case of a person under  
31 eighteen (18) years of age, to order cash payments;

32 (10) to establish and maintain a list of independent medical  
33 examiners and to order physical examinations;

34 (11) to subpoena witnesses **and order the production and**  
35 **examination of books, papers, and records;**

36 (12) to administer oaths;

37 (13) to apply to the circuit or superior court to enforce the

attendance and testimony of witnesses and the production and examination of books, papers, and records;

(14) to create and undertake a program designed to educate and provide assistance to employees and employers regarding the rights and remedies provided by IC 22-3-2 through IC 22-3-7, and to provide for informal resolution of disputes;

(15) to assess and collect, on the board's own initiative or on the motion of a party, the penalties provided for in IC 22-3-2 through IC 22-3-7; ~~and~~

**(16) to appoint board ombudsmen to determine issues arising under IC 22-3-2 through IC 22-3-7, subject to the limitations set forth in section 3.1(b) of this chapter; and**

**(17) to exercise all other powers and duties conferred upon the board by law.**

SECTION 3. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3.1. (a) A board ombudsman appointed by the worker's compensation board may do the following:**

**(1) Administer an oath or affirmation that is required by law.**

**(2) Order that a subpoena be issued in a matter pending before the board.**

**(3) Verify a certificate for the authentication of records of a proceeding conducted by the board ombudsman.**

**(b) A board ombudsman appointed by the worker's compensation board may do the following:**

**(1) Conduct a prehearing conference or an evidentiary hearing.**

**(2) Determine issues arising under IC 22-3-2 through IC 22-3-7 with the following exceptions:**

**(A) Claims regarding the compensability of an injury or a disease arising out of and in the course of employment under IC 22-3-2-2(a) or IC 22-3-7-2(a).**

**(B) A determination as to whether one (1) of the special defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b) operates as a bar to the employee's claim.**

**(C) A determination as to whether the employee is**

1 permanently and totally disabled for purposes of  
2 IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.

3 (D) The approval of settlement agreements under  
4 IC 22-3-2-15.

5 (E) Issues involving a lack of diligence, bad faith, or an  
6 independent tort under IC 22-3-4-12.1.

7 SECTION 4. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2004]: **Sec. 3.2. A board ombudsman shall report the board  
10 ombudsman's findings in an evidentiary hearing to the board. A  
11 board member shall enter the final order or award. The final order  
12 or award is subject to full board review under IC 22-3-4-7.**

13 SECTION 5. IC 22-3-1-4 IS ADDED TO THE INDIANA CODE AS  
14 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
15 2004]: **Sec. 4. (a) The worker's compensation board performance  
16 evaluation committee is established.**

17 (b) The committee consists of five (5) members appointed by  
18 the governor as follows:

19 (1) One (1) member who represents organized labor.

20 (2) One (1) member who represents businesses covered by  
21 IC 22-3-2 through IC 22-3-7.

22 (3) One (1) member who represents insurers who issue  
23 insurance policies under IC 22-3-2 through IC 22-3-7.

24 (4) One (1) member who primarily represents employees  
25 before the board.

26 (5) One (1) member who primarily represents employers  
27 before the board.

28 (c) The members of the committee must be Indiana residents.

29 (d) A member of the committee serves a four (4) year term and  
30 until the member's successor is appointed and qualified. A  
31 committee member may be reappointed.

32 (e) The governor may remove a committee member at any time  
33 for incompetency, neglect of duty, or unprofessional conduct.

34 (f) Each committee member is entitled to:

35 (1) the minimum salary per diem provided by

1           **IC 4-10-11-2.1(b); and**

2           **(2) reimbursement of travel expenses and other expenses**  
 3           **actually incurred in connection with the member's duties;**  
 4           **as provided in the state travel policies and procedures established**  
 5           **by the Indiana department of administration and approved by the**  
 6           **budget agency. The amounts described in this subsection must be**  
 7           **paid out of the worker's compensation supplemental**  
 8           **administrative fund established by IC 22-3-5-6.**

9           **(g) Three (3) members of the committee constitute a quorum.**  
 10          **At least three (3) votes are necessary for the committee to take**  
 11          **official action.**

12          **(h) Each year the committee shall elect a chair who presides at**  
 13          **all meetings at which the chair is present. If the chair is absent**  
 14          **from a committee meeting at which a quorum is present, the**  
 15          **members who are present may elect a presiding officer who serves**  
 16          **until the conclusion of the meeting or the arrival of the chair.**

17          **(i) The committee shall:**

18               **(1) establish a procedure and guidelines for the review of**  
 19               **board members' performance as required by section (1)(d) of**  
 20               **this chapter; and**

21               **(2) annually provide to the governor a report concerning the**  
 22               **reviews conducted.**

23          SECTION 6. IC 22-3-3-4, AS AMENDED BY P.L.31-2000,  
 24          SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25          JULY 1, 2004]: Sec. 4. (a) After an injury and prior to an adjudication  
 26          of permanent impairment, the employer shall furnish or cause to be  
 27          furnished, free of charge to the employee, an attending physician for the  
 28          treatment of ~~his~~ **the employee's** injuries, and in addition thereto such  
 29          surgical, hospital, and nursing services and supplies as the attending  
 30          physician or the worker's compensation board may deem necessary. If  
 31          the employee is requested or required by the employer to submit to  
 32          treatment outside the county of employment, the employer shall also  
 33          pay the reasonable expense of travel, food, and lodging necessary  
 34          during the travel, but not to exceed the amount paid at the time of the  
 35          travel by the state to its employees under the state travel policies and  
 36          procedures established by the **Indiana** department of administration and

1 approved by the ~~state~~ budget agency. If the treatment or travel to or  
 2 from the place of treatment causes a loss of working time to the  
 3 employee, the employer shall reimburse the employee for the loss of  
 4 wages using the basis of the employee's average daily wage.

5 (b) During the period of temporary total disability resulting from the  
 6 injury, the employer shall furnish the physician services, and supplies,  
 7 and the worker's compensation board may, on proper application of  
 8 either party, require that treatment by the physician and services and  
 9 supplies be furnished by or on behalf of the employer as the worker's  
 10 compensation board may deem reasonably necessary.

11 (c) **After the employee's medical treatment with an attending**  
 12 **physician described in subsection (a) begins, neither the employer**  
 13 **nor the employer's insurance carrier has the right to transfer or**  
 14 **otherwise redirect an employee's medical treatment to another**  
 15 **physician unless:**

16 (1) **the employee signs a written informed consent to the**  
 17 **transfer or redirection that acknowledges the employee's**  
 18 **right to refuse the transfer or redirection;**

19 (2) **the employee requests the transfer or redirection;**

20 (3) **the attending physician requests that:**

21 (A) **the attending physician's treatment of the employee**  
 22 **be discontinued; or**

23 (B) **the treatment be transferred or redirected to a**  
 24 **physician practicing a different specialty; or**

25 (4) **the worker's compensation board determines that there**  
 26 **is good cause for the transfer or redirection.**

27 (d) **If the employer or the employer's insurance carrier desires**  
 28 **to transfer or redirect the employee's medical treatment under**  
 29 **subsection (c)(4) for good cause, the employer or the employer's**  
 30 **insurance carrier shall file a transfer request with the worker's**  
 31 **compensation board on forms prescribed by the board. A transfer**  
 32 **may not occur until the worker's compensation board issues an**  
 33 **order granting the transfer request.**

34 (e) **After an employee's injury has been adjudicated by agreement or**  
 35 **award on the basis of permanent partial impairment and within the**  
 36 **statutory period for review in such case as provided in section 27 of**

1 this chapter, the employer may continue to furnish a physician or  
 2 surgeon and other medical services and supplies, and the worker's  
 3 compensation board may within the statutory period for review as  
 4 provided in section 27 of this chapter, on a proper application of either  
 5 party, require that treatment by that physician and other medical  
 6 services and supplies be furnished by and on behalf of the employer as  
 7 the worker's compensation board may deem necessary to limit or  
 8 reduce the amount and extent of the employee's impairment. The refusal  
 9 of the employee to accept such services and supplies, when provided  
 10 by or on behalf of the employer, shall bar the employee from all  
 11 compensation otherwise payable during the period of the refusal, and  
 12 ~~his~~ **the employee's** right to prosecute any proceeding under IC 22-3-2  
 13 through IC 22-3-6 shall be suspended and abated until the employee's  
 14 refusal ceases. The employee must be served with a notice setting forth  
 15 the consequences of the refusal under this section. The notice must be  
 16 in a form prescribed by the worker's compensation board. No  
 17 compensation for permanent total impairment, permanent partial  
 18 impairment, permanent disfigurement, or death shall be paid or payable  
 19 for that part ~~or portion~~ of the impairment, disfigurement, or death  
 20 which is the result of the failure of the employee to accept the  
 21 treatment, services, and supplies required under this section. However,  
 22 an employer may at any time permit an employee to have treatment for  
 23 ~~his~~ **the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead**  
 24 of the physician or surgeon and other medical services and supplies  
 25 required under this section.

26 ~~(d)~~ **(f)** If, because of an emergency, or because of the employer's  
 27 failure to provide an attending physician or surgical, hospital, or nursing  
 28 services and supplies, or treatment by spiritual means or prayer, as  
 29 required by this section, or because of any other good reason, a  
 30 physician other than that provided by the employer treats the injured  
 31 employee during the period of the employee's temporary total disability,  
 32 or necessary and proper surgical, hospital, or nursing services and  
 33 supplies are procured within the period, the reasonable cost of those  
 34 services and supplies shall, subject to the approval of the worker's  
 35 compensation board, be paid by the employer.

36 ~~(e)~~ **(g)** Regardless of when it occurs, where a compensable injury  
 37 results in the amputation of a body part, the enucleation of an eye, or



the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(f)~~ **(h)** If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

~~(g)~~ **(i)** This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

- (1) medical care furnished by health care providers selected by agreement before or after injury; or
- (2) the findings of a health care provider who was chosen by agreement.

SECTION 7. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with:

- (1) the eighth ~~(8th)~~ day of ~~such~~ the disability, for injuries occurring before July 1, 2004; and**
- (2) the third day of the disability, for injuries occurring after June 30, 2004;**

except for medical benefits provided in section 4 of the chapter. **For injuries occurring before July 1, 2004,** compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. **For injuries occurring after June 30, 2004, compensation is allowed for the first three (3) calendar**

**days only if the disability continues for at least fourteen (14) days.**

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

~~An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50); to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund. An employer that fails to pay the temporary total disability compensation required by this section shall pay the employee for each day that the amount due the employee remains unpaid a penalty equal to ten percent (10%) of the amount due the employee in addition to the~~

1        **compensation due. The maximum penalty payable under this**  
 2        **subsection is twice the unpaid temporary total disability**  
 3        **compensation due the employee. The employee may recover the**  
 4        **unpaid temporary total disability compensation and the penalty**  
 5        **described in this subsection in a suit before the worker's**  
 6        **compensation board along with reasonable attorney's fees.**

7        (c) Once begun, temporary total disability benefits may not be  
 8        terminated by the employer unless:

- 9            (1) the employee has returned to any employment;
- 10          (2) the employee has died;
- 11          (3) the employee has refused to undergo a medical examination
- 12          under section 6 of this chapter or has refused to accept suitable
- 13          employment under section 11 of this chapter;
- 14          (4) the employee has received five hundred (500) weeks of
- 15          temporary total disability benefits or has been paid the maximum
- 16          compensation allowed under section 22 of this chapter; ~~or~~
- 17          (5) the employee is unable or unavailable to work for reasons
- 18          unrelated to the compensable injury; **or**
- 19          **(6) the employee returns to work with limitations or**
- 20          **restrictions, and the employer converts temporary total**
- 21          **disability or temporary partial disability compensation into**
- 22          **disabled from trade compensation under section 33 of this**
- 23          **chapter.**

24        In all other cases the employer must notify the employee in writing of  
 25        the employer's intent to terminate the payment of temporary total  
 26        disability benefits and of the availability of employment, if any, on a  
 27        form approved by the board. If the employee disagrees with the  
 28        proposed termination, the employee must give written notice of  
 29        disagreement to the board and the employer within seven (7) days after  
 30        receipt of the notice of intent to terminate benefits. If the board and  
 31        employer do not receive a notice of disagreement under this section, the  
 32        employee's temporary total disability benefits shall be terminated. Upon  
 33        receipt of the notice of disagreement, the board shall immediately  
 34        contact the parties, which may be by telephone or other means, and  
 35        attempt to resolve the disagreement. If the board is unable to resolve the  
 36        disagreement within ten (10) days of receipt of the notice of  
 37        disagreement, the board shall immediately arrange for an evaluation of

the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

**(d) If an employer desires to have an employee examined by a physician other than the employee's attending physician (described in section 4 of this chapter) to determine the employee's:**

**(1) temporary total disability; or**

**(2) permanent partial impairment rating;**

**the employer shall petition the board for the appointment of an independent medical examiner under IC 22-3-4-11. The employer shall pay the fees and expenses of the independent medical examination. The independent medical examiner's appointment and determination of the employee's quiescence or level of impairment is in lieu of any other rights provided to the employee under this section.**

**(e) If:**

**(1) the transfer or redirection of an employee's medical treatment occurs;**

**(2) the physician to whom the employee is transferred or redirected is not appointed as an independent medical examiner under subsection (d); and**

**(3) the physician to whom the employee is transferred or redirected issues a determination as to the employee's:**

**(A) temporary total disability; or**

**(B) permanent partial impairment;**

**within sixty (60) days of the date the physician first examines or treats the employee, the physician's determination is not**

1       **admissible in a proceeding to determine the employee's temporary**  
 2       **total disability or permanent partial impairment.**

3       (f) An employer is not required to continue the payment of  
 4       temporary total disability benefits for more than fourteen (14) days after  
 5       the employer's proposed termination date unless the independent  
 6       medical examiner determines that the employee is temporarily disabled  
 7       and unable to return to any employment that the employer has made  
 8       available to the employee.

9       ~~(f)~~ (g) If it is determined that as a result of this section temporary  
 10       total disability benefits were overpaid, the overpayment shall be  
 11       deducted from any benefits due the employee under section 10 of this  
 12       chapter and, if there are no benefits due the employee or the benefits  
 13       due the employee do not equal the amount of the overpayment, the  
 14       employee shall be responsible for paying any overpayment which  
 15       cannot be deducted from benefits due the employee.

16       SECTION 8. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,  
 17       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18       JULY 1, 2004]: Sec. 10. (a) ~~With respect to injuries in the following~~  
 19       ~~schedule occurring prior to April 1, 1951, the employee shall receive in~~  
 20       ~~addition to temporary total disability benefits not exceeding twenty-six~~  
 21       ~~(26) weeks on account of the injuries, a weekly compensation of~~  
 22       ~~fifty-five percent (55%) of the employee's average weekly wages. With~~  
 23       ~~respect to injuries in the following schedule occurring on and after April~~  
 24       ~~1, 1951, and prior to July 1, 1971, the employee shall receive in addition~~  
 25       ~~to temporary total disability benefits not exceeding twenty-six (26)~~  
 26       ~~weeks on account of the injuries, a weekly compensation of sixty~~  
 27       ~~percent (60%) of the employee's average weekly wages. With respect~~  
 28       ~~to injuries in the following schedule occurring on and after July 1, 1971,~~  
 29       ~~and before July 1, 1977, the employee shall receive in addition to~~  
 30       ~~temporary total disability benefits not exceeding twenty-six (26) weeks~~  
 31       ~~on account of the injuries, a weekly compensation of sixty percent~~  
 32       ~~(60%) of the employee's average weekly wages not to exceed one~~  
 33       ~~hundred dollars (\$100) average weekly wages, for the periods stated for~~  
 34       ~~the injuries. With respect to injuries in the following schedule occurring~~  
 35       ~~on and after July 1, 1977, and before July 1, 1979, the employee shall~~  
 36       ~~receive, in addition to temporary total disability benefits not exceeding~~  
 37       ~~twenty-six (26) weeks on account of the injury, a weekly compensation~~

1 ~~of sixty percent (60%) of his average weekly wages, not to exceed one~~  
 2 ~~hundred twenty-five dollars (\$125) average weekly wages, for the~~  
 3 ~~period stated for the injury.~~ With respect to injuries in the following  
 4 schedule occurring on and after July 1, 1979, and before July 1, 1988,  
 5 the employee shall receive, in addition to temporary total disability  
 6 benefits not to exceed fifty-two (52) weeks on account of the injury,  
 7 a weekly compensation of sixty percent (60%) of the employee's  
 8 average weekly wages, not to exceed one hundred twenty-five dollars  
 9 (\$125) average weekly wages, for the period stated for the injury.

10 (b) With respect to injuries in the following schedule occurring on  
 11 and after July 1, 1988, and before July 1, 1989, the employee shall  
 12 receive, in addition to temporary total disability benefits not exceeding  
 13 seventy-eight (78) weeks on account of the injury, a weekly  
 14 compensation of sixty percent (60%) of the employee's average weekly  
 15 wages, not to exceed one hundred sixty-six dollars (\$166) average  
 16 weekly wages, for the period stated for the injury.

17 (c) With respect to injuries in the following schedule occurring on  
 18 and after July 1, 1989, and before July 1, 1990, the employee shall  
 19 receive, in addition to temporary total disability benefits not exceeding  
 20 seventy-eight (78) weeks on account of the injury, a weekly  
 21 compensation of sixty percent (60%) of the employee's average weekly  
 22 wages, not to exceed one hundred eighty-three dollars (\$183) average  
 23 weekly wages, for the period stated for the injury.

24 (d) With respect to injuries in the following schedule occurring on  
 25 and after July 1, 1990, and before July 1, 1991, the employee shall  
 26 receive, in addition to temporary total disability benefits not exceeding  
 27 seventy-eight (78) weeks on account of the injury, a weekly  
 28 compensation of sixty percent (60%) of the employee's average weekly  
 29 wages, not to exceed two hundred dollars (\$200) average weekly  
 30 wages, for the period stated for the injury:

31 (1) Amputation: For the loss by separation of the thumb, sixty  
 32 (60) weeks, of the index finger forty (40) weeks, of the second  
 33 finger thirty-five (35) weeks, of the third or ring finger thirty (30)  
 34 weeks, of the fourth or little finger twenty (20) weeks, of the  
 35 hand by separation below the elbow joint two hundred (200)  
 36 weeks, or the arm above the elbow two hundred fifty (250)  
 37 weeks, of the big toe sixty (60) weeks, of the second toe thirty

(30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks; ~~and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks;~~ for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

~~(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With~~

1 respect to injuries in the following schedule occurring on and after April  
 2 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of  
 3 all other compensation on account of the injuries a weekly  
 4 compensation of sixty percent (60%) of the employee's average weekly  
 5 wages. With respect to injuries in the following schedule occurring on  
 6 and after April 1, 1955, and prior to July 1, 1971, the employee shall  
 7 receive in addition to temporary total disability benefits not exceeding  
 8 twenty-six (26) weeks on account of the injuries, a weekly  
 9 compensation of sixty percent (60%) of the employee's average weekly  
 10 wages. With respect to injuries in the following schedule occurring on  
 11 and after July 1, 1971, and before July 1, 1977, the employee shall  
 12 receive in addition to temporary total disability benefits not exceeding  
 13 twenty-six (26) weeks on account of the injuries, a weekly  
 14 compensation of sixty percent (60%) of the employee's average weekly  
 15 wages, not to exceed one hundred dollars (\$100) average weekly  
 16 wages, for the period stated for such injuries respectively. With respect  
 17 to injuries in the following schedule occurring on and after July 1, 1977,  
 18 and before July 1, 1979, the employee shall receive, in addition to  
 19 temporary total disability benefits not exceeding twenty-six (26) weeks  
 20 on account of the injury, a weekly compensation of sixty percent (60%)  
 21 of the employee's average weekly wages not to exceed one hundred  
 22 twenty-five dollars (\$125) average weekly wages, for the period stated  
 23 for the injury.

24 (e) With respect to injuries in the following schedule occurring on  
 25 and after July 1, 1979, and before July 1, 1988, the employee shall  
 26 receive, in addition to temporary total disability benefits not exceeding  
 27 fifty-two (52) weeks on account of the injury, a weekly compensation  
 28 of sixty percent (60%) of the employee's average weekly wages not to  
 29 exceed one hundred twenty-five dollars (\$125) average weekly wages  
 30 for the period stated for the injury.

31 (f) With respect to injuries in the following schedule occurring on  
 32 and after July 1, 1988, and before July 1, 1989, the employee shall  
 33 receive, in addition to temporary total disability benefits not exceeding  
 34 seventy-eight (78) weeks on account of the injury, a weekly  
 35 compensation of sixty percent (60%) of the employee's average weekly  
 36 wages, not to exceed one hundred sixty-six dollars (\$166) average  
 37 weekly wages, for the period stated for the injury.



1       **(g)** With respect to injuries in the following schedule occurring on  
 2       and after July 1, 1989, and before July 1, 1990, the employee shall  
 3       receive, in addition to temporary total disability benefits not exceeding  
 4       seventy-eight (78) weeks on account of the injury, a weekly  
 5       compensation of sixty percent (60%) of the employee's average weekly  
 6       wages, not to exceed one hundred eighty-three dollars (\$183) average  
 7       weekly wages, for the period stated for the injury.

8       **(h)** With respect to injuries in the following schedule occurring on  
 9       and after July 1, 1990, and before July 1, 1991, the employee shall  
 10      receive, in addition to temporary total disability benefits not exceeding  
 11      seventy-eight (78) weeks on account of the injury, a weekly  
 12      compensation of sixty percent (60%) of the employee's average weekly  
 13      wages, not to exceed two hundred dollars (\$200) average weekly  
 14      wages, for the period stated for the injury.

15       (1) Loss of use: The total permanent loss of the use of an arm,  
 16       hand, thumb, finger, leg, foot, toe, or phalange shall be considered  
 17       as the equivalent of the loss by separation of the arm, hand,  
 18       thumb, finger, leg, foot, toe, or phalange, and compensation shall  
 19       be paid for the same period as for the loss thereof by separation.

20       (2) Partial loss of use: For the permanent partial loss of the use of  
 21       an arm, hand, thumb, finger, leg, foot, toe, or phalange,  
 22       compensation shall be paid for the proportionate loss of the use of  
 23       such arm, hand, thumb, finger, leg, foot, toe, or phalange.

24       (3) For injuries resulting in total permanent disability, five hundred  
 25       (500) weeks.

26       (4) For any permanent reduction of the sight of an eye less than  
 27       a total loss as specified in subsection (a)(3), compensation shall be  
 28       paid for a period proportionate to the degree of such permanent  
 29       reduction without correction or glasses. However, when such  
 30       permanent reduction without correction or glasses would result in  
 31       one hundred percent (100%) loss of vision, but correction or  
 32       glasses would result in restoration of vision, then in such event  
 33       compensation shall be paid for fifty percent (50%) of such total  
 34       loss of vision without glasses, plus an additional amount equal to  
 35       the proportionate amount of such reduction with glasses, not to  
 36       exceed an additional fifty percent (50%).

37       (5) For any permanent reduction of the hearing of one (1) or both

ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

~~(c)~~ (i) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent

1           impairment.

2           (2) Amputations: For the loss by separation of any of the body  
3           parts described in subdivision (1) on or after July 1, 1997, and for  
4           the loss by separation of any of the body parts described in  
5           subdivision (3), (5), or (8), on or after July 1, 1999, the dollar  
6           values per degree applying on the date of the injury as described  
7           in subsection ~~(d)~~ (j) shall be multiplied by two (2). However, the  
8           doubling provision of this subdivision does not apply to a loss of  
9           use that is not a loss by separation.

10          (3) The loss of more than one (1) phalange of a thumb or toe shall  
11          be considered as the loss of the entire thumb or toe. The loss of  
12          more than two (2) phalanges of a finger shall be considered as the  
13          loss of the entire finger. The loss of not more than one (1)  
14          phalange of a thumb or toe shall be considered as the loss of  
15          one-half (1/2) of the degrees of permanent impairment for the loss  
16          of the entire thumb or toe. The loss of not more than one (1)  
17          phalange of a finger shall be considered as the loss of one-third  
18          (1/3) of the finger and compensation shall be paid for one-third  
19          (1/3) of the degrees payable for the loss of the entire finger. The  
20          loss of more than one (1) phalange of the finger but not more than  
21          two (2) phalanges of the finger shall be considered as the loss of  
22          one-half (1/2) of the finger and compensation shall be paid for  
23          one-half (1/2) of the degrees payable for the loss of the entire  
24          finger.

25          (4) For the loss by separation of both hands or both feet or the  
26          total sight of both eyes or any two (2) such losses in the same  
27          accident, one hundred (100) degrees of permanent impairment.

28          (5) For the permanent and complete loss of vision by enucleation,  
29          thirty-five (35) degrees of permanent impairment.

30          (6) For the reduction of vision to one-tenth (1/10) of normal  
31          vision with glasses, thirty-five (35) degrees of permanent  
32          impairment.

33          (7) For the permanent and complete loss of hearing in one (1) ear,  
34          fifteen (15) degrees of permanent impairment, and in both ears,  
35          forty (40) degrees of permanent impairment.

36          (8) For the loss of one (1) testicle, ten (10) degrees of permanent  
37          impairment; for the loss of both testicles, thirty (30) degrees of

1 permanent impairment.

2 (9) Loss of use: The total permanent loss of the use of an arm, a  
3 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be  
4 considered as the equivalent of the loss by separation of the arm,  
5 hand, thumb, finger, leg, foot, toe, or phalange, and compensation  
6 shall be paid in the same amount as for the loss by separation.  
7 However, the doubling provision of subdivision (2) does not apply  
8 to a loss of use that is not a loss by separation.

9 (10) Partial loss of use: For the permanent partial loss of the use  
10 of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a  
11 phalange, compensation shall be paid for the proportionate loss of  
12 the use of the arm, hand, thumb, finger, leg, foot, toe, or  
13 phalange.

14 (11) For injuries resulting in total permanent disability, the amount  
15 payable for impairment or five hundred (500) weeks of  
16 compensation, whichever is greater.

17 (12) For any permanent reduction of the sight of an eye less than  
18 a total loss as specified in subsection (a)(3), the compensation  
19 shall be paid in an amount proportionate to the degree of a  
20 permanent reduction without correction or glasses. However,  
21 when a permanent reduction without correction or glasses would  
22 result in one hundred percent (100%) loss of vision, then  
23 compensation shall be paid for fifty percent (50%) of the total loss  
24 of vision without glasses, plus an additional amount equal to the  
25 proportionate amount of the reduction with glasses, not to exceed  
26 an additional fifty percent (50%).

27 (13) For any permanent reduction of the hearing of one (1) or  
28 both ears, less than the total loss as specified in subsection (a)(4),  
29 compensation shall be paid in an amount proportionate to the  
30 degree of a permanent reduction.

31 (14) In all other cases of permanent partial impairment,  
32 compensation proportionate to the degree of a permanent partial  
33 impairment, in the discretion of the worker's compensation board,  
34 not exceeding one hundred (100) degrees of permanent  
35 impairment.

36 (15) In all cases of permanent disfigurement which may impair the  
37 future usefulness or opportunities of the employee, compensation,

1 in the discretion of the worker's compensation board, not  
 2 exceeding forty (40) degrees of permanent impairment except that  
 3 no compensation shall be payable under this subdivision where  
 4 compensation is payable elsewhere in this section.

5 ~~(d)~~ (j) Compensation for permanent partial impairment shall be paid  
 6 according to the degree of permanent impairment for the injury  
 7 determined under subsection ~~(c)~~ (i) and the following:

8 (1) With respect to injuries occurring on and after July 1, 1991,  
 9 and before July 1, 1992, for each degree of permanent impairment  
 10 from one (1) to thirty-five (35), five hundred dollars (\$500) per  
 11 degree; for each degree of permanent impairment from thirty-six  
 12 (36) to fifty (50), nine hundred dollars (\$900) per degree; for each  
 13 degree of permanent impairment above fifty (50), one thousand  
 14 five hundred dollars (\$1,500) per degree.

15 (2) With respect to injuries occurring on and after July 1, 1992,  
 16 and before July 1, 1993, for each degree of permanent impairment  
 17 from one (1) to twenty (20), five hundred dollars (\$500) per  
 18 degree; for each degree of permanent impairment from  
 19 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)  
 20 per degree; for each degree of permanent impairment from  
 21 thirty-six (36) to fifty (50), one thousand three hundred dollars  
 22 (\$1,300) per degree; for each degree of permanent impairment  
 23 above fifty (50), one thousand seven hundred dollars (\$1,700) per  
 24 degree.

25 (3) With respect to injuries occurring on and after July 1, 1993,  
 26 and before July 1, 1997, for each degree of permanent impairment  
 27 from one (1) to ten (10), five hundred dollars (\$500) per degree;  
 28 for each degree of permanent impairment from eleven (11) to  
 29 twenty (20), seven hundred dollars (\$700) per degree; for each  
 30 degree of permanent impairment from twenty-one (21) to  
 31 thirty-five (35), one thousand dollars (\$1,000) per degree; for  
 32 each degree of permanent impairment from thirty-six (36) to fifty  
 33 (50), one thousand four hundred dollars (\$1,400) per degree; for  
 34 each degree of permanent impairment above fifty (50), one  
 35 thousand seven hundred dollars (\$1,700) per degree.

36 (4) With respect to injuries occurring on and after July 1, 1997,  
 37 and before July 1, 1998, for each degree of permanent impairment

1 from one (1) to ten (10), seven hundred fifty dollars (\$750) per  
 2 degree; for each degree of permanent impairment from eleven (11)  
 3 to thirty-five (35), one thousand dollars (\$1,000) per degree; for  
 4 each degree of permanent impairment from thirty-six (36) to fifty  
 5 (50), one thousand four hundred dollars (\$1,400) per degree; for  
 6 each degree of permanent impairment above fifty (50), one  
 7 thousand seven hundred dollars (\$1,700) per degree.

8 (5) With respect to injuries occurring on and after July 1, 1998,  
 9 and before July 1, 1999, for each degree of permanent impairment  
 10 from one (1) to ten (10), seven hundred fifty dollars (\$750) per  
 11 degree; for each degree of permanent impairment from eleven (11)  
 12 to thirty-five (35), one thousand dollars (\$1,000) per degree; for  
 13 each degree of permanent impairment from thirty-six (36) to fifty  
 14 (50), one thousand four hundred dollars (\$1,400) per degree; for  
 15 each degree of permanent impairment above fifty (50), one  
 16 thousand seven hundred dollars (\$1,700) per degree.

17 (6) With respect to injuries occurring on and after July 1, 1999,  
 18 and before July 1, 2000, for each degree of permanent impairment  
 19 from one (1) to ten (10), nine hundred dollars (\$900) per degree;  
 20 for each degree of permanent impairment from eleven (11) to  
 21 thirty-five (35), one thousand one hundred dollars (\$1,100) per  
 22 degree; for each degree of permanent impairment from thirty-six  
 23 (36) to fifty (50), one thousand six hundred dollars (\$1,600) per  
 24 degree; for each degree of permanent impairment above fifty (50),  
 25 two thousand dollars (\$2,000) per degree.

26 (7) With respect to injuries occurring on and after July 1, 2000,  
 27 and before July 1, 2001, for each degree of permanent impairment  
 28 from one (1) to ten (10), one thousand one hundred dollars  
 29 (\$1,100) per degree; for each degree of permanent impairment  
 30 from eleven (11) to thirty-five (35), one thousand three hundred  
 31 dollars (\$1,300) per degree; for each degree of permanent  
 32 impairment from thirty-six (36) to fifty (50), two thousand dollars  
 33 (\$2,000) per degree; for each degree of permanent impairment  
 34 above fifty (50), two thousand five hundred fifty dollars (\$2,500)  
 35 per degree.

36 (8) With respect to injuries occurring on and after July 1, 2001,  
 37 **and before July 1, 2004**, for each degree of permanent

1 impairment from one (1) to ten (10), one thousand three hundred  
2 dollars (\$1,300) per degree; for each degree of permanent  
3 impairment from eleven (11) to thirty-five (35), one thousand five  
4 hundred dollars (\$1,500) per degree; for each degree of permanent  
5 impairment from thirty-six (36) to fifty (50), two thousand four  
6 hundred dollars (\$2,400) per degree; for each degree of permanent  
7 impairment above fifty (50), three thousand dollars (\$3,000) per  
8 degree.

9 **(9) With respect to injuries occurring on and after July 1,**  
10 **2004, and before July 1, 2005, for each degree of permanent**  
11 **impairment from one (1) to ten (10), one thousand nine**  
12 **hundred dollars (\$1,900) per degree; for each degree of**  
13 **permanent impairment from eleven (11) to thirty-five (35),**  
14 **two thousand one hundred dollars (\$2,100) per degree; for**  
15 **each degree of permanent impairment from thirty-six (36) to**  
16 **fifty (50), three thousand six hundred dollars (\$3,600) per**  
17 **degree; for each degree of permanent impairment above fifty**  
18 **(50), four thousand five hundred dollars (\$4,500) per degree.**

19 **(10) With respect to injuries occurring on and after July 1,**  
20 **2005, and before July 1, 2006, for each degree of permanent**  
21 **impairment from one (1) to ten (10), two thousand one**  
22 **hundred dollars (\$2,100) per degree; for each degree of**  
23 **permanent impairment from eleven (11) to thirty-five (35),**  
24 **two thousand three hundred dollars (\$2,300) per degree; for**  
25 **each degree of permanent impairment from thirty-six (36) to**  
26 **fifty (50), four thousand dollars (\$4,000) per degree; for each**  
27 **degree of permanent impairment above fifty (50), five**  
28 **thousand dollars (\$5,000) per degree.**

29 **(11) With respect to injuries occurring on and after July 1,**  
30 **2006, for each degree of permanent impairment from one (1)**  
31 **to ten (10), two thousand three hundred dollars (\$2,300) per**  
32 **degree; for each degree of permanent impairment from**  
33 **eleven (11) to thirty-five (35), two thousand five hundred**  
34 **dollars (\$2,500) per degree; for each degree of permanent**  
35 **impairment from thirty-six (36) to fifty (50), four thousand**  
36 **four hundred dollars (\$4,400) per degree; for each degree of**

**permanent impairment above fifty (50), five thousand five hundred dollars (\$5,500) per degree.**

~~(e)~~ **(k)** The average weekly wages used in the determination of compensation for permanent partial impairment under subsections ~~(e)~~ **(i)** and ~~(d)~~ **(j)** shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2004**, eight hundred eighty-two dollars (\$882).

**(11) With respect to injuries occurring on or after July 1, 2004, and before July 1, 2005, one thousand two dollars (\$1,002).**

**(12) With respect to injuries occurring on or after July 1, 2005, and before July 1, 2006, one thousand sixty-two dollars (\$1,062).**

**(13) With respect to injuries occurring on or after July 1, 2006, one thousand one hundred twenty-two dollars (\$1,122).**

SECTION 9. IC 22-3-3-13, AS AMENDED BY P.L.178-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2004]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand; one (1) arm; one (1) foot; one (1) leg; or one (1) eye; and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye; the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund; and created in the manner described in subsection (c):

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(c) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period; the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk; stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk; shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for

1 temporary total disability; temporary partial disability; permanent total  
 2 impairment; permanent partial impairment; or death of an employee. The  
 3 board may not consider payments for medical benefits in calculating an  
 4 assessment under this subsection. If the amount to the credit of the  
 5 second injury fund on or before October 1 of any year exceeds one  
 6 million dollars (\$1,000,000), the assessment allowed under this  
 7 subsection shall not be assessed or collected during the ensuing year.  
 8 But when on or before October 1 of any year the amount to the credit  
 9 of the fund is less than one million dollars (\$1,000,000), the payments  
 10 of not more than two and one-half percent (2.5%) of the total amount  
 11 of all worker's compensation paid to injured employees or their  
 12 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year  
 13 next preceding that date shall be resumed and paid into the fund. The  
 14 board may not use an assessment rate greater than twenty-five  
 15 hundredths of one percent (0.25%) above the amount recommended by  
 16 the study performed before the assessment.

17 (d) The board shall enter into a contract with an actuary or another  
 18 qualified firm that has experience in calculating worker's compensation  
 19 liabilities. Not later than September 1 of each year, the actuary or other  
 20 qualified firm shall calculate the recommended funding level of the fund  
 21 based on the previous year's claims and inform the board of the results  
 22 of the calculation. If the amount to the credit of the fund is less than the  
 23 amount required under subsection (c), the board may conduct an  
 24 assessment under subsection (c). The board shall pay the costs of the  
 25 contract under this subsection with money in the fund.

26 (e) An assessment collected under subsection (c) on an employer  
 27 who is not self-insured must be assessed through a surcharge based on  
 28 the employer's premium. An assessment collected under subsection (c)  
 29 does not constitute an element of loss; but for the purpose of collection  
 30 shall be treated as a separate cost imposed upon insured employers. A  
 31 premium surcharge under this subsection must be collected at the same  
 32 time and in the same manner in which the premium for coverage is  
 33 collected; and must be shown as a separate amount on a premium  
 34 statement. A premium surcharge under this subsection must be  
 35 excluded from the definition of premium for all purposes, including the  
 36 computation of insurance producer commissions or premium taxes.  
 37 However, an insurer may cancel a worker's compensation policy for

1 nonpayment of the premium surcharge. A cancellation under this  
 2 subsection must be carried out under the statutes applicable to the  
 3 nonpayment of premiums.

4 (f) The sums shall be paid by the board to the treasurer of state, to  
 5 be deposited in a special account known as the second injury fund. The  
 6 funds are not a part of the general fund of the state. Any balance  
 7 remaining in the account at the end of any fiscal year shall not revert to  
 8 the general fund. The funds shall be used only for the payment of  
 9 awards of compensation and expense of medical examinations or  
 10 treatment made and ordered by the board and chargeable against the  
 11 fund pursuant to this section; and shall be paid for that purpose by the  
 12 treasurer of state upon award or order of the board.

13 (g) (a) If an employee who is entitled to compensation under  
 14 IC 22-3-2 through IC 22-3-6 either:

15 (1) exhausts the maximum benefits under section 22 of this  
 16 chapter without having received the full amount of award granted  
 17 to the employee under section 10 of this chapter; or

18 (2) exhausts the employee's benefits under section 10 of this  
 19 chapter;

20 then such employee may apply to the board, who may award the  
 21 employee compensation from the second injury fund established by this  
 22 section, IC 22-3-4-15, as follows under subsection (h): (b).

23 (h) (b) An employee who has exhausted the employee's maximum  
 24 benefits under section 10 of this chapter may be awarded additional  
 25 compensation equal to sixty-six and two-thirds percent (66 2/3%) of  
 26 the employee's average weekly wage at the time of the employee's  
 27 injury, not to exceed the maximum then applicable under section 22 of  
 28 this chapter, for a period of not to exceed one hundred fifty (150)  
 29 weeks upon competent evidence sufficient to establish:

30 (1) that the employee is totally and permanently disabled from  
 31 causes and conditions of which there are or have been objective  
 32 conditions and symptoms proven that are not within the physical  
 33 or mental control of the employee; and

34 (2) that the employee is unable to support the employee in any  
 35 gainful employment, not associated with rehabilitative or  
 36 vocational therapy.

37 (i) (c) The additional award may be renewed during the employee's

total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) ~~All insurance carriers subject to an assessment under this section are required to provide to the board:~~

~~(1) not later than January 31 each calendar year; and~~

~~(2) not later than thirty (30) days after a change occurs;~~

~~the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.~~

SECTION 10. IC 22-3-3-22, AS AMENDED BY P.L.31-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) ~~In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963; and prior to April 1, 1965; the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965; and prior to April 1, 1967; the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967; and prior to April 1, 1969; the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969; and prior to July 1, 1971; the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971; and prior to July 1, 1974; the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars (\$100) if no dependents; (2) one hundred five dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110) if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three (3)~~

1 dependents; (5) one hundred twenty dollars (\$120) if four (4)  
 2 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)  
 3 or more dependents; and (B) Not less than thirty-five dollars (\$35). In  
 4 computing compensation for temporary total disability; temporary  
 5 partial disability; and total permanent disability under this law with  
 6 respect to injuries occurring on and after July 1, 1974; and before July  
 7 1, 1976; the average weekly wages shall be considered to be (A) not  
 8 more than one hundred thirty-five dollars (\$135); and (B) not less than  
 9 seventy-five dollars (\$75). However, the weekly compensation payable  
 10 shall in no case exceed the average weekly wages of the employee at  
 11 the time of the injury. In computing compensation for temporary total  
 12 disability; temporary partial disability and total permanent disability  
 13 under this law with respect to injuries occurring on and after July 1,  
 14 1976; and before July 1, 1977; the average weekly wages shall be  
 15 considered to be (1) not more than one hundred fifty-six dollars (\$156)  
 16 and (2) not less than seventy-five dollars (\$75). However, the weekly  
 17 compensation payable shall not exceed the average weekly wages of the  
 18 employee at the time of the injury. In computing compensation for  
 19 temporary total disability; temporary partial disability; and total  
 20 permanent disability; with respect to injuries occurring on and after July  
 21 1, 1977; and before July 1, 1979; the average weekly wages are  
 22 considered to be (1) not more than one hundred eighty dollars (\$180);  
 23 and (2) not less than seventy-five dollars (\$75). However, the weekly  
 24 compensation payable may not exceed the average weekly wages of the  
 25 employee at the time of the injury. In computing compensation for  
 26 temporary total disability; temporary partial disability; and total  
 27 permanent disability; with respect to injuries occurring on and after July  
 28 1, 1979; and before July 1, 1980; the average weekly wages are  
 29 considered to be (1) not more than one hundred ninety-five dollars  
 30 (\$195); and (2) not less than seventy-five dollars (\$75). However, the  
 31 weekly compensation payable shall not exceed the average weekly  
 32 wages of the employee at the time of the injury. In computing  
 33 compensation for temporary total disability; temporary partial disability;  
 34 and total permanent disability; with respect to injuries occurring on and  
 35 after July 1, 1980; and before July 1, 1983; the average weekly wages  
 36 are considered to be (1) not more than two hundred ten dollars (\$210);  
 37 and (2) not less than seventy-five dollars (\$75). However, the weekly

1 compensation payable shall not exceed the average weekly wages of the  
 2 employee at the time of the injury. In computing compensation for  
 3 temporary total disability, temporary partial disability, and total  
 4 permanent disability, with respect to injuries occurring on and after July  
 5 1, 1983, and before July 1, 1984, the average weekly wages are  
 6 considered to be (1) not more than two hundred thirty-four dollars  
 7 (\$234) and (2) not less than seventy-five dollars (\$75). However, the  
 8 weekly compensation payable shall not exceed the average weekly  
 9 wages of the employee at the time of the injury. In computing  
 10 compensation for temporary total disability, temporary partial disability,  
 11 and total permanent disability, with respect to injuries occurring on and  
 12 after July 1, 1984, and before July 1, 1985, the average weekly wages  
 13 are considered to be (1) not more than two hundred forty-nine dollars  
 14 (\$249) and (2) not less than seventy-five dollars (\$75). However, the  
 15 weekly compensation payable shall not exceed the average weekly  
 16 wages of the employee at the time of the injury.

17 (a) In computing compensation for temporary total disability,  
 18 temporary partial disability, and total permanent disability, with respect  
 19 to injuries occurring on and after July 1, 1985, and before July 1, 1986,  
 20 the average weekly wages are considered to be:

- 21 (1) not more than two hundred sixty-seven dollars (\$267); and
- 22 (2) not less than seventy-five dollars (\$75). However, the weekly
- 23 compensation payable shall not exceed the average weekly wages
- 24 of the employee at the time of the injury.

25 (b) In computing compensation for temporary total disability,  
 26 temporary partial disability, and total permanent disability, with respect  
 27 to injuries occurring on and after July 1, 1986, and before July 1, 1988,  
 28 the average weekly wages are considered to be:

- 29 (1) not more than two hundred eighty-five dollars (\$285); and
- 30 (2) not less than seventy-five dollars (\$75).

31 However, the weekly compensation payable shall not exceed the  
 32 average weekly wages of the employee at the time of the injury.

33 (c) In computing compensation for temporary total disability,  
 34 temporary partial disability, and total permanent disability, with respect  
 35 to injuries occurring on and after July 1, 1988, and before July 1, 1989,  
 36 the average weekly wages are considered to be:

- 37 (1) not more than three hundred eighty-four dollars (\$384); and

1           (2) not less than seventy-five dollars (\$75).

2           However, the weekly compensation payable shall not exceed the  
3           average weekly wages of the employee at the time of the injury.

4           **(d)** In computing compensation for temporary total disability,  
5           temporary partial disability, and total permanent disability, with respect  
6           to injuries occurring on and after July 1, 1989, and before July 1, 1990,  
7           the average weekly wages are considered to be:

8                 (1) not more than four hundred eleven dollars (\$411); and

9                 (2) not less than seventy-five dollars (\$75).

10          However, the weekly compensation payable shall not exceed the  
11          average weekly wages of the employee at the time of the injury.

12          **(e)** In computing compensation for temporary total disability,  
13          temporary partial disability, and total permanent disability, with respect  
14          to injuries occurring on and after July 1, 1990, and before July 1, 1991,  
15          the average weekly wages are considered to be:

16                 (1) not more than four hundred forty-one dollars (\$441); and

17                 (2) not less than seventy-five dollars (\$75).

18          However, the weekly compensation payable shall not exceed the  
19          average weekly wages of the employee at the time of the injury.

20          **(f)** In computing compensation for temporary total disability,  
21          temporary partial disability, and total permanent disability, with respect  
22          to injuries occurring on and after July 1, 1991, and before July 1, 1992,  
23          the average weekly wages are considered to be:

24                 (1) not more than four hundred ninety-two dollars (\$492); and

25                 (2) not less than seventy-five dollars (\$75).

26          However, the weekly compensation payable shall not exceed the  
27          average weekly wages of the employee at the time of the injury.

28          **(g)** In computing compensation for temporary total disability,  
29          temporary partial disability, and total permanent disability, with respect  
30          to injuries occurring on and after July 1, 1992, and before July 1, 1993,  
31          the average weekly wages are considered to be:

32                 (1) not more than five hundred forty dollars (\$540); and

33                 (2) not less than seventy-five dollars (\$75).

34          However, the weekly compensation payable shall not exceed the  
35          average weekly wages of the employee at the time of the injury.

36          **(h)** In computing compensation for temporary total disability,  
37          temporary partial disability, and total permanent disability, with respect

to injuries occurring on and after July 1, 1993, and before July 1, 1994,  
the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the  
average weekly wages of the employee at the time of the injury.

(i) In computing compensation for temporary total disability,  
temporary partial disability, and total permanent disability, with respect  
to injuries occurring on and after July 1, 1994, and before July 1, 1997,  
the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the  
average weekly wages of the employee at the time of the injury.

~~(b)~~ (j) In computing compensation for temporary total disability,  
temporary partial disability, and total permanent disability, the average  
weekly wages are considered to be:

- (1) with respect to injuries occurring on and after July 1, 1997,  
and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and
- (B) not less than seventy-five dollars (\$75);

- (2) with respect to injuries occurring on and after July 1, 1998,  
and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and
- (B) not less than seventy-five dollars (\$75);

- (3) with respect to injuries occurring on and after July 1, 1999,  
and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732);
- and

- (B) not less than seventy-five dollars (\$75);

- (4) with respect to injuries occurring on and after July 1, 2000,  
and before July 1, 2001:

- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);

- (5) with respect to injuries occurring on and after July 1, 2001,  
and before July 1, 2002:

- (A) not more than eight hundred twenty-two dollars (\$822);



- 1                   and
- 2                   (B) not less than seventy-five dollars (\$75); ~~and~~
- 3           (6) with respect to injuries occurring on and after July 1, 2002,
- 4           **and before July 1, 2004:**
- 5                   (A) not more than eight hundred eighty-two dollars (\$882); and
- 6                   (B) not less than seventy-five dollars (\$75);
- 7           **(7) with respect to injuries occurring on and after July 1,**
- 8           **2004, and before July 1, 2005:**
- 9                   (A) not more than one thousand two dollars (\$1,002); and
- 10                  (B) not less than forty (40) times the state minimum wage
- 11                  established by IC 22-2-2;
- 12           **(8) with respect to injuries occurring on and after July 1,**
- 13           **2005, and before July 1, 2006:**
- 14                  (A) not more than one thousand sixty-two dollars (\$1,062);
- 15                  and
- 16                  (B) not less than forty (40) times the state minimum wage
- 17                  established by IC 22-2-2; and
- 18           **(9) with respect to injuries occurring on and after July 1,**
- 19           **2006:**
- 20                  (A) not more than one thousand one hundred twenty-two
- 21                  dollars (\$1,122); and
- 22                  (B) not less than forty (40) times the state minimum wage
- 23                  established by IC 22-2-2.

24           However, the weekly compensation payable shall not exceed the **actual**

25           average weekly wages of the employee at the time of the injury.

26           ~~(c) For the purpose of this section only and with respect to injuries~~

27           ~~occurring on and after July 1, 1971, and prior to July 1, 1974, only, the~~

28           ~~term "dependent" as used in this section shall mean persons defined as~~

29           ~~presumptive dependents under section 19 of this chapter, except that~~

30           ~~such dependency shall be determined as of the date of the injury to the~~

31           ~~employee.~~

32           ~~(d) With respect to any injury occurring on and after April 1, 1955,~~

33           ~~and prior to April 1, 1957, the maximum compensation exclusive of~~

34           ~~medical benefits, which shall be paid for an injury under any provisions~~

35           ~~of this law or under any combination of its provisions shall not exceed~~

36           ~~twelve thousand five hundred dollars (\$12,500) in any case. With~~

1 respect to any injury occurring on and after April 1, 1957 and prior to  
2 April 1, 1963, the maximum compensation exclusive of medical  
3 benefits, which shall be paid for an injury under any provision of this  
4 law or under any combination of its provisions shall not exceed fifteen  
5 thousand dollars (\$15,000) in any case. With respect to any injury  
6 occurring on and after April 1, 1963, and prior to April 1, 1965, the  
7 maximum compensation exclusive of medical benefits, which shall be  
8 paid for an injury under any provision of this law or under any  
9 combination of its provisions shall not exceed sixteen thousand five  
10 hundred dollars (\$16,500) in any case. With respect to any injury  
11 occurring on and after April 1, 1965, and prior to April 1, 1967, the  
12 maximum compensation exclusive of medical benefits which shall be  
13 paid for any injury under any provision of this law or any combination  
14 of provisions shall not exceed twenty thousand dollars (\$20,000) in any  
15 case. With respect to any injury occurring on and after April 1, 1967,  
16 and prior to July 1, 1971, the maximum compensation exclusive of  
17 medical benefits which shall be paid for an injury under any provision  
18 of this law or any combination of provisions shall not exceed  
19 twenty-five thousand dollars (\$25,000) in any case. With respect to any  
20 injury occurring on and after July 1, 1971, and prior to July 1, 1974,  
21 the maximum compensation exclusive of medical benefits which shall  
22 be paid for any injury under any provision of this law or any  
23 combination of provisions shall not exceed thirty thousand dollars  
24 (\$30,000) in any case. With respect to any injury occurring on and after  
25 July 1, 1974, and before July 1, 1976, the maximum compensation  
26 exclusive of medical benefits which shall be paid for an injury under any  
27 provision of this law or any combination of provisions shall not exceed  
28 forty-five thousand dollars (\$45,000) in any case. With respect to an  
29 injury occurring on and after July 1, 1976, and before July 1, 1977, the  
30 maximum compensation, exclusive of medical benefits, which shall be  
31 paid for any injury under any provision of this law or any combination  
32 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in  
33 any case. With respect to any injury occurring on and after July 1,  
34 1977, and before July 1, 1979, the maximum compensation, exclusive  
35 of medical benefits, which may be paid for an injury under any  
36 provision of this law or any combination of provisions may not exceed  
37 sixty thousand dollars (\$60,000) in any case. With respect to any injury

1 occurring on and after July 1, 1979, and before July 1, 1980, the  
 2 maximum compensation, exclusive of medical benefits, which may be  
 3 paid for an injury under any provisions of this law or any combination  
 4 of provisions may not exceed sixty-five thousand dollars (\$65,000) in  
 5 any case. With respect to any injury occurring on and after July 1,  
 6 1980, and before July 1, 1983, the maximum compensation, exclusive  
 7 of medical benefits, which may be paid for an injury under any  
 8 provisions of this law or any combination of provisions may not exceed  
 9 seventy thousand dollars (\$70,000) in any case. With respect to any  
 10 injury occurring on and after July 1, 1983, and before July 1, 1984, the  
 11 maximum compensation, exclusive of medical benefits, which may be  
 12 paid for an injury under any provisions of this law or any combination  
 13 of provisions may not exceed seventy-eight thousand dollars (\$78,000)  
 14 in any case. With respect to any injury occurring on and after July 1,  
 15 1984, and before July 1, 1985, the maximum compensation, exclusive  
 16 of medical benefits, which may be paid for an injury under any  
 17 provisions of this law or any combination of provisions may not exceed  
 18 eighty-three thousand dollars (\$83,000) in any case.

19 (k) With respect to any injury occurring on and after July 1, 1985,  
 20 and before July 1, 1986, the maximum compensation, exclusive of  
 21 medical benefits, which may be paid for an injury under any provisions  
 22 of this law or any combination of provisions may not exceed  
 23 eighty-nine thousand dollars (\$89,000) in any case.

24 (l) With respect to any injury occurring on and after July 1, 1986,  
 25 and before July 1, 1988, the maximum compensation, exclusive of  
 26 medical benefits, which may be paid for an injury under any provisions  
 27 of this law or any combination of provisions may not exceed ninety-five  
 28 thousand dollars (\$95,000) in any case.

29 (m) With respect to any injury occurring on and after July 1, 1988,  
 30 and before July 1, 1989, the maximum compensation, exclusive of  
 31 medical benefits, which may be paid for an injury under any provisions  
 32 of this law or any combination of provisions may not exceed one  
 33 hundred twenty-eight thousand dollars (\$128,000) in any case.

34 (n) With respect to any injury occurring on and after July 1, 1989,  
 35 and before July 1, 1990, the maximum compensation, exclusive of  
 36 medical benefits, which may be paid for an injury under any provisions  
 37 of this law or any combination of provisions may not exceed one

1       hundred thirty-seven thousand dollars (\$137,000) in any case.

2       **(o)** With respect to any injury occurring on and after July 1, 1990,  
3       and before July 1, 1991, the maximum compensation, exclusive of  
4       medical benefits, which may be paid for an injury under any provisions  
5       of this law or any combination of provisions may not exceed one  
6       hundred forty-seven thousand dollars (\$147,000) in any case.

7       **(p)** With respect to any injury occurring on and after July 1, 1991,  
8       and before July 1, 1992, the maximum compensation, exclusive of  
9       medical benefits, that may be paid for an injury under any provisions of  
10      this law or any combination of provisions may not exceed one hundred  
11      sixty-four thousand dollars (\$164,000) in any case.

12      **(q)** With respect to any injury occurring on and after July 1, 1992,  
13      and before July 1, 1993, the maximum compensation, exclusive of  
14      medical benefits, that may be paid for an injury under any provisions of  
15      this law or any combination of provisions may not exceed one hundred  
16      eighty thousand dollars (\$180,000) in any case.

17      **(r)** With respect to any injury occurring on and after July 1, 1993,  
18      and before July 1, 1994, the maximum compensation, exclusive of  
19      medical benefits, that may be paid for an injury under any provisions of  
20      this law or any combination of provisions may not exceed one hundred  
21      ninety-seven thousand dollars (\$197,000) in any case.

22      **(s)** With respect to any injury occurring on and after July 1, 1994,  
23      and before July 1, 1997, the maximum compensation, exclusive of  
24      medical benefits, which may be paid for an injury under any provisions  
25      of this law or any combination of provisions may not exceed two  
26      hundred fourteen thousand dollars (\$214,000) in any case.

27      ~~(e)~~ **(t)** The maximum compensation, exclusive of medical benefits,  
28      that may be paid for an injury under any provision of this law or any  
29      combination of provisions may not exceed the following amounts in any  
30      case:

31           (1) With respect to an injury occurring on and after July 1, 1997,  
32           and before July 1, 1998, two hundred twenty-four thousand  
33           dollars (\$224,000).

34           (2) With respect to an injury occurring on and after July 1, 1998,  
35           and before July 1, 1999, two hundred thirty-four thousand dollars  
36           (\$234,000).

37           (3) With respect to an injury occurring on and after July 1, 1999,

1 and before July 1, 2000, two hundred forty-four thousand dollars  
2 (\$244,000).

3 (4) With respect to an injury occurring on and after July 1, 2000,  
4 and before July 1, 2001, two hundred fifty-four thousand dollars  
5 (\$254,000).

6 (5) With respect to an injury occurring on and after July 1, 2001,  
7 and before July 1, 2002, two hundred seventy-four thousand  
8 dollars (\$274,000).

9 (6) With respect to an injury occurring on and after July 1, 2002,  
10 **and before July 1, 2004**, two hundred ninety-four thousand  
11 dollars (\$294,000).

12 **(7) With respect to an injury occurring on and after July 1,**  
13 **2004, and before July 1, 2005, three hundred thirty-four**  
14 **thousand dollars (\$334,000).**

15 **(8) With respect to an injury occurring on and after July 1,**  
16 **2005, and before July 1, 2006, three hundred fifty-four**  
17 **thousand dollars (\$354,000).**

18 **(9) With respect to an injury occurring on and after July 1,**  
19 **2006, three hundred seventy-four thousand dollars**  
20 **(\$374,000).**

21 SECTION 11. IC 22-3-3-27 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 27. (a) The power and  
23 jurisdiction of the worker's compensation board over each case shall be  
24 continuing and from time to time it may, upon its own motion or upon  
25 the application of either party, on account of a change in conditions,  
26 make such modification or change in the award ending, lessening,  
27 continuing, or extending the payments previously awarded, either by  
28 agreement or upon hearing, as it may deem just, subject to the  
29 maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

30 (b) Upon making any such change, the board shall immediately send  
31 to each of the parties a copy of the modified award. No such  
32 modification shall affect the previous award as to any money paid  
33 thereunder.

34 (c) The board shall not make any ~~such~~ modification upon its own  
35 motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by either  
36 party after the expiration of two (2) years from **the latest of the**

1 following:

2 (1) the last day for which compensation was paid ~~under the~~  
 3 ~~original award made either by agreement or upon hearing; except~~  
 4 ~~that applications for increased permanent partial impairment are~~  
 5 ~~barred unless filed within one (1) year from the last day for which~~  
 6 ~~compensation was paid; for temporary total disability,~~  
 7 permanent partial impairment, or permanent total disability.

8 (2) The date of an award for temporary total disability,  
 9 permanent partial impairment, or permanent total disability.

10 (3) The last day that medical expenses under section 4 of this  
 11 chapter were provided to the employee.

12 The board may at any time correct any clerical error in any finding or  
 13 award.

14 SECTION 12. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16 1, 2004]: Sec. 33. (a) If an employee:

17 (1) receives an injury that results in a temporary total  
 18 disability or a temporary partial disability;

19 (2) is capable of performing work with permanent limitations  
 20 or restrictions that prevent the employee from returning to  
 21 the position the employee held before the employee's injury;  
 22 and

23 (3) is enrolled in a training program approved by:

24 (A) the incumbent workers training board established by  
 25 IC 22-4-18.3-2; or

26 (B) the unemployment insurance board created by  
 27 IC 22-4-18-2;

28 the employee may receive disabled from trade compensation.

29 (b) An employee may receive disabled from trade compensation  
 30 for a period not to exceed:

31 (1) fifty-two (52) consecutive weeks; or

32 (2) seventy-eight (78) total weeks.

33 (c) An employee is entitled to receive disabled from trade  
 34 compensation in a weekly amount equal to the difference between  
 35 the employee's average weekly wage from employment at the

1       time of the injury and the employee's average weekly wage from  
 2       employment after the injury with the permanent restrictions or  
 3       limitations resulting from the injury.

4       (d) The amount of disabled from trade compensation may not  
 5       exceed the maximum average weekly wage amounts set forth in  
 6       section 22 of this chapter.

7       (e) Not later than sixty (60) days after the employee's release  
 8       to return to work with restrictions or limitations, the employee  
 9       must receive notice from the employer on a form provided by the  
 10      board that informs the employee that the employee has been  
 11      released to work with limitations or restrictions. The notice must  
 12      include:

13           (1) an explanation of the limitations or restrictions placed on  
 14           the employee;

15           (2) the amount of disabled from trade compensation the  
 16           employee has been awarded; and

17           (3) information for the employee regarding the terms of this  
 18           section.

19      (f) Disabled from trade compensation is in addition to any other  
 20      compensation awarded to an employee as a result of a temporary  
 21      total disability or a permanent partial impairment.

22      (g) An employer may unilaterally convert an award of  
 23      compensation for a temporary total disability or a temporary  
 24      partial disability into disabled from trade compensation by filing  
 25      a copy of the notice required under subsection (e) with the board.

26      SECTION 13. IC 22-3-4-2 IS AMENDED TO READ AS  
 27      FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The worker's  
 28      compensation board may make rules not inconsistent with IC 22-3-2  
 29      through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through  
 30      IC 22-3-6. Processes and procedures under IC 22-3-2 through  
 31      IC 22-3-6 shall be as summary and simple as reasonably may be. The  
 32      board or any member of the board shall have the power for the purpose  
 33      of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or  
 34      cause to have administered oaths, and to examine or cause to have  
 35      examined such parts of the books and records of the parties to a  
 36      proceeding as relate to questions in dispute.

(b) The county sheriff shall serve all subpoenas of the board **and the board ombudsmen appointed under IC 22-3-1-1** and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoenas of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

(c) The circuit or superior court shall, on application of the board or any member of the board, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

SECTION 14. IC 22-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the employer and the injured employee or the injured employee's dependents disagree in regard to the compensation payable under IC 22-3-2 through IC 22-3-6 or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute.

(b) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the employee, employer, and attorneys of record in the manner prescribed by the board of the time and place of all hearings and requests for continuances. The hearing of all claims for compensation, on account of injuries occurring within the state, shall be held in the county in which the injury occurred, **or** in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

SECTION 15. IC 22-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The board by any or



all of its members **or the board ombudsmen appointed under IC 22-3-1-1** shall hear the parties at issue, their representatives and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent to each of the employee, employer, and attorney of record in the dispute.

SECTION 16. IC 22-3-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the injury occurred a certified copy of:

- (1) the memorandum of agreement approved by the board; ~~or of~~
- (2) an order or decision of the board; ~~or of~~
- (3) an award of the full board unappealed from; ~~or of~~
- (4) an award of the full board affirmed upon an appeal;

whereupon said court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though said judgment had been rendered in a suit duly heard and determined by said court.

(b) Any such judgment of said circuit or superior court:

- (1) unappealed from; ~~or~~
- (2) affirmed on appeal; or
- (3) modified in obedience to the mandate of the court of appeals;

shall be modified to conform to any decision of the worker's compensation board ending, diminishing, or increasing any weekly payment under the provisions of IC 22-3-3-27 upon the presentation to it of a certified copy of such decision.

**(c) An employer shall pay a judgment entered under this section not later than thirty (30) days after the date the judgment is final.**

**(d) An employer that fails to pay a judgment under this section by the time required by subsection (c) shall pay the employee for each day that the amount due the employee remains unpaid a penalty equal to ten percent (10%) of the amount awarded the**

1     **employee in addition to the amount due. The maximum penalty**  
 2     **payable under this subsection is twice the unpaid amount due the**  
 3     **employee. The employee may recover the unpaid judgment and**  
 4     **the penalty described in this subsection in any court having**  
 5     **jurisdiction of a suit to collect the unpaid judgment along with**  
 6     **reasonable attorney's fees.**

7     SECTION 17. IC 22-3-4-10 IS AMENDED TO READ AS  
 8     FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. In all proceedings  
 9     before the worker's compensation board or in a court under IC 22-3-2  
 10    through IC 22-3-6, the costs shall be awarded and taxed as provided by  
 11    law in ordinary civil actions in the circuit court. **Prejudgment interest**  
 12    **shall be awarded at a rate of ten percent (10%) per year, accruing**  
 13    **from the date of filing of the application of adjustment of claim as**  
 14    **determined under section 5(a) of this chapter.**

15    SECTION 18. IC 22-3-4-15 IS ADDED TO THE INDIANA CODE  
 16    AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 17    1, 2004]: Sec. 15. (a) As used in this section, "board" refers to the  
 18    worker's compensation board created by IC 22-3-1-1.

19    (b) If an employee who from any cause:

20       (1) loses the use of one (1) hand, one (1) arm, one (1) foot,  
 21       one (1) leg, or one (1) eye, and in a subsequent industrial  
 22       accident or exposure becomes permanently and totally  
 23       disabled because of the loss, or loss of, another member or  
 24       eye; or

25       (2) is impaired from an occupational disease and  
 26       subsequently becomes permanently and totally impaired  
 27       from a second occupational disease;

28    **the employer is liable only for the compensation payable for the**  
 29    **second injury or impairment. However, in addition to and after the**  
 30    **completion of the payment of that compensation, the employee**  
 31    **shall be paid the remainder of the compensation that is due for**  
 32    **the total permanent disability out of a special fund known as the**  
 33    **second injury fund created as described in subsection (c).**

34    (c) Whenever the board determines under the procedures set  
 35    forth in subsection (d) that an assessment is necessary to ensure

1 that fund beneficiaries, including applicants under IC 22-3-3-4(g)  
2 or IC 22-3-7-17(e), continue to receive compensation in a timely  
3 manner for a reasonable prospective period, the board shall send  
4 notice to:

5 (1) all insurance carriers and other entities insuring or  
6 providing coverage to employers who are or may be liable  
7 under this article to pay compensation for the:

8 (A) personal injuries or occupational disease to; or

9 (B) death of;

10 their employees under this article; and

11 (2) each employer carrying the employer's own risk;

12 stating that an assessment is necessary. The board may conduct  
13 an assessment under this subsection not more than one (1) time  
14 annually. Every insurance carrier and other entity insuring or  
15 providing coverage to employers who are or may be liable under  
16 this article to pay compensation for the personal injuries or  
17 occupational disease to or the death of their employees under this  
18 article and every employer carrying the employer's own risk,  
19 shall, within thirty (30) days of the board sending notice under  
20 this subsection, pay to the worker's compensation board for the  
21 benefit of the fund an assessed amount equal to the recommended  
22 funding level under subsection (d). For purposes of calculating the  
23 assessment under this subsection, the board may consider  
24 payments for temporary total disability, temporary partial  
25 disability, permanent total impairment, permanent partial  
26 impairment, or death of an employee. The board shall not consider  
27 payments for medical benefits in calculating an assessment under  
28 this subsection. On or before October 1 of any year when the  
29 amount to the credit of the fund is insufficient to fulfill the  
30 obligations of the fund, the board shall assess an amount equal to  
31 the recommended funding level of the total amount of all  
32 compensation paid to employees or their beneficiaries under  
33 IC 22-3-2 through IC 22-3-7 for the calendar year preceding that  
34 date to be paid into the fund.

35 (d) The board shall enter into a contract with an actuary or

1 another qualified firm that has experience in calculating worker's  
2 compensation liabilities. The actuary or other qualified firm shall  
3 calculate the recommended funding level of the fund based on the  
4 previous year's claims and inform the board of the results of the  
5 calculation. If the amount to the credit of the fund is less than the  
6 amount required under subsection (c), the board may conduct an  
7 assessment under subsection (c). The board shall pay the costs of  
8 the contract under this subsection with money in the fund.

9 (e) An assessment collected under subsection (c) on an  
10 employer who is not self-insured must be based on the employer's  
11 premium. An assessment collected under subsection (c) does not  
12 constitute an element of loss, but for the purpose of collection  
13 shall be treated as a separate cost imposed upon insured  
14 employers. An assessment under this subsection must be collected  
15 at the same time and in the same manner in which the premium  
16 for coverage is collected, and must be shown as a separate amount  
17 on a premium statement. An assessment under this subsection  
18 must be excluded from the definition of premium for all purposes,  
19 including the computation of agent commissions or premium  
20 taxes. However, an insurer may cancel a worker's compensation  
21 policy for nonpayment of the assessment. A cancellation under  
22 this subsection must be carried out under the statutes applicable  
23 to the nonpayment of premiums.

24 (f) The sums shall be paid by the board to the treasurer of  
25 state, to be deposited in a special account known as the second  
26 injury fund. The funds are not a part of the general fund of the  
27 state. Any balance remaining in the account at the end of any  
28 fiscal year shall not revert to the general fund. The funds shall be  
29 used only for the payment of awards of compensation and expense  
30 of medical examinations or treatment made and ordered by the  
31 board and chargeable against the fund under this section, and  
32 shall be paid for that purpose by the treasurer of state upon award  
33 or order of the board.

34 (g) All insurance carriers subject to an assessment under this  
35 section are required to provide to the board:

1           **(1) not later than January 31 each calendar year; and**  
 2           **(2) not later than thirty (30) days after a change occurs;**  
 3       **the name, address, and electronic mail address of a representative**  
 4       **authorized to receive the notice of an assessment.**

5       **(h) For each day an:**

6           **(1) insurance carrier or other entity insuring or providing**  
 7           **coverage to an employer that is or may be liable to pay**  
 8           **compensation for the:**

9           **(A) personal injuries or occupational disease to; or**

10          **(B) death of;**

11          **the employer's employees under this article; or**

12          **(2) employer carrying the employer's own risk;**

13       **fails to pay an assessment after the day it is due under this**  
 14       **section, the board shall assess a fine of not more than ten percent**  
 15       **(10%) of the assessment due, but not less than five hundred**  
 16       **dollars (\$500), payable to the second injury fund created under**  
 17       **subsection (b).**

18       **(i) In addition to assessing the fine provided under subsection**  
 19       **(h), the board shall refer an insurance carrier that does not**  
 20       **comply with this section to the department of insurance for**  
 21       **administrative action for committing an unfair or a deceptive act**  
 22       **and practice under IC 27-4-1.**

23       SECTION 19. IC 22-3-5-6, AS AMENDED BY P.L.202-2001,  
 24       SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25       JULY 1, 2004]: Sec. 6. (a) The worker's compensation supplemental  
 26       administrative fund is established for the ~~purpose of following~~  
 27       **purposes:**

28           **(1) Carrying out the administrative purposes and functions of the**  
 29           **worker's compensation board.**

30           **(2) Administering the costs of the worker's compensation law**  
 31           **(IC 22-3-2 through IC 22-3-6) and the occupational diseases**  
 32           **law (IC 22-3-7).**

33       **(b) The fund consists of the following:**

34           **(1) Assessments collected under section 7 of this chapter.**

35           **(2) Fees collected from employers under sections 1 through 2 of**

1 this chapter. ~~and from~~

2 **(3) Fees collected under IC 22-3-2-14.5 and IC 22-3-7-34.5.**

3 **(4) Money received from any other source.**

4 **(5) Interest earned from money in the fund.**

5 **(6) Earnings acquired through the use of money from the**  
6 **fund.**

7 **(7) Interest and penalties collected.**

8 **(c) The fund shall be administered by the worker's compensation**  
9 **board. The expenses of administering the fund shall be paid from**  
10 **money in the fund.**

11 **(d) Money in the fund is annually appropriated to the worker's**  
12 **compensation board and shall be used for all expenses incurred by the**  
13 **~~worker's compensation board~~ to carry out the purposes listed in**  
14 **subsection (a).**

15 **(e) The treasurer of state shall invest the money in the fund**  
16 **not currently needed to meet the obligations of the fund in the**  
17 **same manner as other public money may be invested. Interest**  
18 **that accrues from these investments shall be deposited in the**  
19 **fund.**

20 **~~(f) The money in the fund is not to be used to replace funds~~**  
21 **~~otherwise appropriated to the board.~~ (f) Money in the fund at the end**  
22 **of the state fiscal year does not revert to the state general fund.**

23 **SECTION 20. IC 22-3-5-7 IS ADDED TO THE INDIANA CODE**  
24 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
25 **1, 2004]: Sec. 7. (a) As used in this section, "board" refers to the**  
26 **worker's compensation board established by IC 22-3-1-1.**

27 **(b) Not later than May 1 of each year, the board, subject to the**  
28 **budget agency's approval, shall calculate the recommended**  
29 **funding level of the worker's compensation supplemental**  
30 **administrative fund established by section 6 of this chapter based**  
31 **on the previous fiscal year's expenses of adequately administering**  
32 **and the projected increases necessary to adequately administer**  
33 **the worker's compensation system.**

34 **(c) Not later than June 1 of each year, the board shall send**  
35 **notice to:**

1           (1) all insurance carriers and other entities insuring or  
 2           providing coverage to employers that are required under  
 3           section 1 of this chapter or IC 22-3-7-34 to insure or keep  
 4           insured for employer liability under IC 22-3-2 through  
 5           IC 22-3-7; and

6           (2) each employer carrying the employer's own risk under  
 7           section 1 of this chapter or IC 22-3-7-34;

8           of the amount of the assessment as determined under subsection  
 9           (b).

10          (d) Not later than thirty (30) days after receiving notice from  
 11          the board, every insurer described in subsection (c)(1) and every  
 12          employer described in subsection (c)(2) shall pay the assessment  
 13          to the board for the benefit of the worker's compensation  
 14          supplemental administrative fund created by section 6 of this  
 15          chapter.

16          (e) An assessment collected under subsection (d) on an  
 17          employer that is not self-insured must be based on the employer's  
 18          premium. The assessment collected under subsection (d) does not  
 19          constitute an element of loss, but for the purpose of collection  
 20          shall be treated as a separate cost imposed on insured employers.  
 21          The assessment under this section shall be collected at the same  
 22          time and in the same manner in which the premium for coverage  
 23          is collected and must be shown as a separate amount on a  
 24          premium statement. An assessment under this section must be  
 25          excluded from the definition of premium for all purposes,  
 26          including the computation of agent commissions or premium  
 27          taxes. However, an insurer may cancel a worker's compensation  
 28          policy for nonpayment of the assessment under the statutes  
 29          applicable to the nonpayment of premiums.

30          (f) The board shall deposit the amounts collected under  
 31          subsection (d) in the worker's compensation supplemental  
 32          administrative fund established by section 6 of this chapter.

33          SECTION 21. IC 22-3-7-16, AS AMENDED BY P.L.1-2001,  
 34          SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35          JULY 1, 2004]: Sec. 16. (a) Compensation shall be allowed on account

1 of disablement from occupational disease resulting in only temporary  
 2 total disability to work or temporary partial disability to work beginning  
 3 with:

4 (1) the eighth day of ~~such~~ the disability, for disablements  
 5 occurring before July 1, 2004; and

6 (2) the third day of the disability, for disablements occurring  
 7 after June 30, 2004;

8 except for the medical benefits provided for in section 17 of this  
 9 chapter. **For disablements occurring before July 1, 2004,**  
 10 compensation shall be allowed for the first seven (7) calendar days only  
 11 as provided in ~~this section~~ subsection (g) or (h). **For disablements**  
 12 **occurring after June 30, 2004, compensation is allowed for the**  
 13 **first three (3) calendar days only if the disability continues for at**  
 14 **least fourteen (14) days.** The first weekly installment of compensation  
 15 for temporary disability is due fourteen (14) days after the disability  
 16 begins. Not later than fifteen (15) days from the date that the first  
 17 installment of compensation is due, the employer or the employer's  
 18 insurance carrier shall tender to the employee or to the employee's  
 19 dependents, with all compensation due, a properly prepared  
 20 compensation agreement in a form prescribed by the board. Whenever  
 21 an employer or the employer's insurance carrier denies or is not able to  
 22 determine liability to pay compensation or benefits, the employer or the  
 23 employer's insurance carrier shall notify the worker's compensation  
 24 board and the employee in writing on a form prescribed by the worker's  
 25 compensation board not later than thirty (30) days after the employer's  
 26 knowledge of the claimed disablement. If a determination of liability  
 27 cannot be made within thirty (30) days, the worker's compensation  
 28 board may approve an additional thirty (30) days upon a written request  
 29 of the employer or the employer's insurance carrier that sets forth the  
 30 reasons that the determination could not be made within thirty (30) days  
 31 and states the facts or circumstances that are necessary to determine  
 32 liability within the additional thirty (30) days. More than thirty (30) days  
 33 of additional time may be approved by the worker's compensation board  
 34 upon the filing of a petition by the employer or the employer's insurance  
 35 carrier that sets forth:

36 (1) the extraordinary circumstances that have precluded a  
 37 determination of liability within the initial sixty (60) days;



1 (2) the status of the investigation on the date the petition is filed;

2 (3) the facts or circumstances that are necessary to make a  
3 determination; and

4 (4) a timetable for the completion of the remaining investigation.

5 ~~An employer who fails to comply with this section is subject to a civil~~  
6 ~~penalty of fifty dollars (\$50), to be assessed and collected by the board~~  
7 ~~upon notice and hearing. Civil penalties collected under this section shall~~  
8 ~~be deposited in the state general fund. An employer that fails to pay~~  
9 **the temporary total disability compensation required by this**  
10 **section shall pay the employee for each day that the amount due**  
11 **the employee remains unpaid a penalty equal to ten percent**  
12 **(10%) of the amount due the employee in addition to the**  
13 **compensation due. The maximum penalty payable under this**  
14 **subsection is twice the unpaid temporary total disability**  
15 **compensation due the employee. The employee may recover the**  
16 **unpaid temporary total disability compensation and the penalty**  
17 **described in this subsection in a suit before the workers**  
18 **compensation board along with reasonable attorney's fees.**

19 (b) Once begun, temporary total disability benefits may not be  
20 terminated by the employer unless:

21 (1) the employee has returned to work;

22 (2) the employee has died;

23 (3) the employee has refused to undergo a medical examination  
24 under section 20 of this chapter;

25 (4) the employee has received five hundred (500) weeks of  
26 temporary total disability benefits or has been paid the maximum  
27 compensation allowable under section 19 of this chapter; ~~or~~

28 (5) the employee is unable or unavailable to work for reasons  
29 unrelated to the compensable disease; ~~or~~

30 **(6) the employee returns to work with limitations or**  
31 **restrictions, and the employer converts temporary total**  
32 **disability or temporary partial disability compensation into**  
33 **disabled from trade compensation under section 16.5 of this**  
34 **chapter.**

35 In all other cases the employer must notify the employee in writing of  
36 the employer's intent to terminate the payment of temporary total

1 disability benefits, and of the availability of employment, if any, on a  
 2 form approved by the board. If the employee disagrees with the  
 3 proposed termination, the employee must give written notice of  
 4 disagreement to the board and the employer within seven (7) days after  
 5 receipt of the notice of intent to terminate benefits. If the board and  
 6 employer do not receive a notice of disagreement under this section, the  
 7 employee's temporary total disability benefits shall be terminated. Upon  
 8 receipt of the notice of disagreement, the board shall immediately  
 9 contact the parties, which may be by telephone or other means and  
 10 attempt to resolve the disagreement. If the board is unable to resolve the  
 11 disagreement within ten (10) days of receipt of the notice of  
 12 disagreement, the board shall immediately arrange for an evaluation of  
 13 the employee by an independent medical examiner. The independent  
 14 medical examiner shall be selected by mutual agreement of the parties  
 15 or, if the parties are unable to agree, appointed by the board under  
 16 IC 22-3-4-11. If the independent medical examiner determines that the  
 17 employee is no longer temporarily disabled or is still temporarily disabled  
 18 but can return to employment that the employer has made available to  
 19 the employee, or if the employee fails or refuses to appear for  
 20 examination by the independent medical examiner, temporary total  
 21 disability benefits may be terminated. If either party disagrees with the  
 22 opinion of the independent medical examiner, the party shall apply to the  
 23 board for a hearing under section 27 of this chapter.

24 **(c) If an employer desires to have an employee examined by a**  
 25 **physician other than the employee's attending physician**  
 26 **(described in section 17 of this chapter) to determine the**  
 27 **employee's:**

28 **(1) temporary total disability; or**

29 **(2) permanent partial impairment rating;**

30 **the employer shall petition the board for the appointment of an**  
 31 **independent medical examiner under IC 22-3-4-11. The employer**  
 32 **shall pay the fees and expenses of the independent medical**  
 33 **examination. The independent medical examiner's appointment**  
 34 **and determination of the employee's quiescence or level of**  
 35 **impairment is instead of any other rights provided to the**  
 36 **employee under this section.**

1       **(d) If:**

2           **(1) the transfer or redirection of an employee's medical**  
 3           **treatment occurs;**

4           **(2) the physician to whom the employee is transferred or**  
 5           **redirected is not appointed as an independent medical**  
 6           **examiner under subsection (c); and**

7           **(3) the physician to whom the employee is transferred or**  
 8           **redirected issues a determination as to the employee's:**

9               **(A) temporary total disability; or**

10              **(B) permanent partial impairment;**

11       **within sixty (60) days of the date the physician first examines or**  
 12       **treats the employee, the physician's determination is not**  
 13       **admissible in a proceeding to determine the employee's temporary**  
 14       **total disability or permanent partial impairment.**

15       **(e) An employer is not required to continue the payment of**  
 16       **temporary total disability benefits for more than fourteen (14) days after**  
 17       **the employer's proposed termination date unless the independent**  
 18       **medical examiner determines that the employee is temporarily disabled**  
 19       **and unable to return to any employment that the employer has made**  
 20       **available to the employee.**

21       ~~(d)~~ **(f) If it is determined that as a result of this section temporary**  
 22       **total disability benefits were overpaid, the overpayment shall be**  
 23       **deducted from any benefits due the employee under this section and, if**  
 24       **there are no benefits due the employee or the benefits due the employee**  
 25       **do not equal the amount of the overpayment, the employee shall be**  
 26       **responsible for paying any overpayment which cannot be deducted**  
 27       **from benefits due the employee.**

28       ~~(e)~~ **For disablements occurring on and after April 1, 1951, and prior**  
 29       **to July 1, 1971, from occupational disease resulting in temporary total**  
 30       **disability for any work there shall be paid to the disabled employee**  
 31       **during such temporary total disability a weekly compensation equal to**  
 32       **sixty percent (60%) of the employee's average weekly wages for a**  
 33       **period not to exceed five hundred (500) weeks. Compensation shall be**  
 34       **allowed for the first seven (7) calendar days only if the disability**  
 35       **continues for longer than twenty-eight (28) days.**

36       **For disablements occurring on and after July 1, 1971, and prior to**

July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wages, up to one hundred thirty-five dollars (\$135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(g) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. **For disablements occurring before July 1, 2004,** compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. **For disablements occurring after June 30, 2004, compensation is allowed for the first three (3) calendar days only if the disability continues for at least fourteen (14) days.**

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks.

1 Compensation shall be allowed for the first seven (7) calendar days only  
 2 if the disability continues for longer than twenty-eight (28) days. In  
 3 case of partial disability after the period of temporary total disability, the  
 4 later period shall be included as part of the maximum period allowed for  
 5 partial disability.

6 For disablements occurring on and after July 1, 1971, and prior to  
 7 July 1, 1974, from occupational disease resulting in temporary partial  
 8 disability for work there shall be paid to the disabled employee during  
 9 such disability a weekly compensation equal to sixty percent (60%) of  
 10 the difference between the employee's average weekly wages, as  
 11 defined in section 19 of this chapter, and the weekly wages at which  
 12 the employee is actually employed after the disablement, for a period not  
 13 to exceed three hundred (300) weeks. Compensation shall be allowed  
 14 for the first seven (7) calendar days only if the disability continues for  
 15 longer than twenty-eight (28) days. In case of partial disability after the  
 16 period of temporary total disability, the latter period shall be included as  
 17 a part of the maximum period allowed for partial disability.

18 (h) For disablements occurring on and after July 1, 1974, from  
 19 occupational disease resulting in temporary partial disability for work  
 20 there shall be paid to the disabled employee during such disability a  
 21 weekly compensation equal to sixty-six and two-thirds percent (66  
 22 2/3%) of the difference between the employee's average weekly wages,  
 23 as defined in section 19 of this chapter, and the weekly wages at which  
 24 he the employee is actually employed after the disablement, for a  
 25 period not to exceed three hundred (300) weeks. **For disablements**  
 26 **occurring before July 1, 2004,** compensation shall be allowed for the  
 27 first seven (7) calendar days only if the disability continues for longer  
 28 than twenty-one (21) days. **For disablements occurring after June**  
 29 **30, 2004, compensation is allowed for the first three (3) calendar**  
 30 **days only if the disability continues for at least fourteen (14) days.**  
 31 In case of partial disability after the period of temporary total disability,  
 32 the latter period shall be included as a part of the maximum period  
 33 allowed for partial disability.

34 (g) For disabilities occurring on and after April 1, 1951, and prior to  
 35 April 1, 1955, from occupational disease in the following schedule, the  
 36 employee shall receive in lieu of all other compensation, on account of  
 37 such disabilities, a weekly compensation of sixty percent (60%) of the

1 employee's average weekly wage; for disabilities occurring on and after  
 2 April 1, 1955, and prior to July 1, 1971, from occupational disease in  
 3 the following schedule; the employee shall receive in addition to  
 4 disability benefits not exceeding twenty-six (26) weeks on account of  
 5 said occupational disease a weekly compensation of sixty percent  
 6 (60%) of the employee's average weekly wages.

7 For disabilities occurring on and after July 1, 1971, and before July  
 8 1, 1977, from occupational disease in the following schedule; the  
 9 employee shall receive in addition to disability benefits not exceeding  
 10 twenty-six (26) weeks on account of said occupational disease a  
 11 weekly compensation of sixty percent (60%) of his average weekly  
 12 wages not to exceed one hundred dollars (\$100) average weekly wages;  
 13 for the period stated for such disabilities respectively.

14 For disabilities occurring on and after July 1, 1977, and before July  
 15 1, 1979, from occupational disease in the following schedule; the  
 16 employee shall receive in addition to disability benefits not exceeding  
 17 twenty-six (26) weeks on account of the occupational disease a weekly  
 18 compensation of sixty percent (60%) of the employee's average weekly  
 19 wages; not to exceed one hundred twenty-five dollars (\$125) average  
 20 weekly wages; for the period stated for the disabilities.

21 (i) For disabilities occurring on and after July 1, 1979, and before  
 22 July 1, 1988, from occupational disease in the following schedule, the  
 23 employee shall receive in addition to disability benefits, not exceeding  
 24 fifty-two (52) weeks on account of the occupational disease, a weekly  
 25 compensation of sixty percent (60%) of the employee's average weekly  
 26 wages, not to exceed one hundred twenty-five dollars (\$125) average  
 27 weekly wages, for the period stated for the disabilities.

28 (j) For disabilities occurring on and after July 1, 1988, and before  
 29 July 1, 1989, from occupational disease in the following schedule, the  
 30 employee shall receive in addition to disability benefits, not exceeding  
 31 seventy-eight (78) weeks on account of the occupational disease, a  
 32 weekly compensation of sixty percent (60%) of the employee's average  
 33 weekly wages, not to exceed one hundred sixty-six dollars (\$166)  
 34 average weekly wages, for the period stated for the disabilities.

35 (k) For disabilities occurring on and after July 1, 1989, and before  
 36 July 1, 1990, from occupational disease in the following schedule, the  
 37 employee shall receive in addition to disability benefits, not exceeding

seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

(I) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by

1 separation.

2 (3) Partial Loss of Use: For the permanent partial loss of the use  
3 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,  
4 compensation shall be paid for the proportionate loss of the use of  
5 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

6 (4) For disablements for occupational disease resulting in total  
7 permanent disability, five hundred (500) weeks.

8 (5) For the loss of both hands, or both feet, or the total sight of  
9 both eyes, or any two (2) of such losses resulting from the same  
10 disablement by occupational disease, five hundred (500) weeks.

11 (6) For the permanent and complete loss of vision by enucleation  
12 of an eye or its reduction to one-tenth (1/10) of normal vision with  
13 glasses, one hundred fifty (150) weeks, and for any other  
14 permanent reduction of the sight of an eye, compensation shall be  
15 paid for a period proportionate to the degree of such permanent  
16 reduction without correction or glasses. However, when such  
17 permanent reduction without correction or glasses would result in  
18 one hundred percent (100%) loss of vision, but correction or  
19 glasses would result in restoration of vision, then compensation  
20 shall be paid for fifty percent (50%) of such total loss of vision  
21 without glasses plus an additional amount equal to the  
22 proportionate amount of such reduction with glasses, not to  
23 exceed an additional fifty percent (50%).

24 (7) For the permanent and complete loss of hearing, two hundred  
25 (200) weeks.

26 (8) In all other cases of permanent partial impairment,  
27 compensation proportionate to the degree of such permanent  
28 partial impairment, in the discretion of the worker's compensation  
29 board, not exceeding five hundred (500) weeks.

30 (9) In all cases of permanent disfigurement, which may impair the  
31 future usefulness or opportunities of the employee, compensation  
32 in the discretion of the worker's compensation board, not  
33 exceeding two hundred (200) weeks, except that no compensation  
34 shall be payable under this paragraph where compensation shall be  
35 payable under subdivisions (1) through (8). Where compensation  
36 for temporary total disability has been paid, this amount of  
37 compensation shall be deducted from any compensation due for



1 permanent disfigurement.

2 (m) With respect to disablements in the following schedule  
 3 occurring on and after July 1, 1991, the employee shall receive in  
 4 addition to temporary total disability benefits, not exceeding one  
 5 hundred twenty-five (125) weeks on account of the disablement,  
 6 compensation in an amount determined under the following schedule to  
 7 be paid weekly at a rate of sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ )  
 8 of the employee's average weekly wages during the fifty-two (52)  
 9 weeks immediately preceding the week in which the disablement  
 10 occurred:

11 (1) Amputation: For the loss by separation of the thumb, twelve  
 12 (12) degrees of permanent impairment; of the index finger, eight  
 13 (8) degrees of permanent impairment; of the second finger, seven  
 14 (7) degrees of permanent impairment; of the third or ring finger,  
 15 six (6) degrees of permanent impairment; of the fourth or little  
 16 finger, four (4) degrees of permanent impairment; of the hand by  
 17 separation below the elbow joint, forty (40) degrees of permanent  
 18 impairment; of the arm above the elbow, fifty (50) degrees of  
 19 permanent impairment; of the big toe, twelve (12) degrees of  
 20 permanent impairment; of the second toe, six (6) degrees of  
 21 permanent impairment; of the third toe, four (4) degrees of  
 22 permanent impairment; of the fourth toe, three (3) degrees of  
 23 permanent impairment; of the fifth or little toe, two (2) degrees of  
 24 permanent impairment; of separation of the foot below the knee  
 25 joint, thirty-five (35) degrees of permanent impairment; and of the  
 26 leg above the knee joint, forty-five (45) degrees of permanent  
 27 impairment.

28 (2) Amputations occurring on or after July 1, 1997: For the loss  
 29 by separation of any of the body parts described in subdivision (1)  
 30 on or after July 1, 1997, the dollar values per degree applying on  
 31 the date of the injury as described in subsection (h) shall be  
 32 multiplied by two (2). However, the doubling provision of this  
 33 subdivision does not apply to a loss of use that is not a loss by  
 34 separation.

35 (3) The loss of more than one (1) phalange of a thumb or toe shall  
 36 be considered as the loss of the entire thumb or toe. The loss of  
 37 more than two (2) phalanges of a finger shall be considered as the

1        loss of the entire finger. The loss of not more than one (1)  
2        phalange of a thumb or toe shall be considered as the loss of  
3        one-half (1/2) of the degrees of permanent impairment for the loss  
4        of the entire thumb or toe. The loss of not more than one (1)  
5        phalange of a finger shall be considered as the loss of one-third  
6        (1/3) of the finger and compensation shall be paid for one-third  
7        (1/3) of the degrees payable for the loss of the entire finger. The  
8        loss of more than one (1) phalange of the finger but not more than  
9        two (2) phalanges of the finger shall be considered as the loss of  
10       one-half (1/2) of the finger and compensation shall be paid for  
11       one-half (1/2) of the degrees payable for the loss of the entire  
12       finger.

13       (4) For the loss by separation of both hands or both feet or the  
14       total sight of both eyes or any two (2) such losses in the same  
15       accident, one hundred (100) degrees of permanent impairment.

16       (5) For the permanent and complete loss of vision by enucleation  
17       or its reduction to one-tenth (1/10) of normal vision with glasses,  
18       thirty-five (35) degrees of permanent impairment.

19       (6) For the permanent and complete loss of hearing in one (1) ear,  
20       fifteen (15) degrees of permanent impairment, and in both ears,  
21       forty (40) degrees of permanent impairment.

22       (7) For the loss of one (1) testicle, ten (10) degrees of permanent  
23       impairment; for the loss of both testicles, thirty (30) degrees of  
24       permanent impairment.

25       (8) Loss of use: The total permanent loss of the use of an arm, a  
26       hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be  
27       considered as the equivalent of the loss by separation of the arm,  
28       hand, thumb, finger, leg, foot, toe, or phalange, and compensation  
29       shall be paid in the same amount as for the loss by separation.  
30       However, the doubling provision of subdivision (2) does not apply  
31       to a loss of use that is not a loss by separation.

32       (9) Partial loss of use: For the permanent partial loss of the use of  
33       an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a  
34       phalange, compensation shall be paid for the proportionate loss of  
35       the use of the arm, hand, thumb, finger, leg, foot, toe, or  
36       phalange.

37       (10) For disablements resulting in total permanent disability, the

amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

~~(11)~~ **(n)** With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection ~~(11)~~ **(m)** and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50),

- 1           one thousand five hundred dollars (\$1,500) per degree.
- 2           (2) With respect to disablements occurring on and after July 1,  
3           1992, and before July 1, 1993, for each degree of permanent  
4           impairment from one (1) to twenty (20), five hundred dollars  
5           (\$500) per degree; for each degree of permanent impairment from  
6           twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)  
7           per degree; for each degree of permanent impairment from  
8           thirty-six (36) to fifty (50), one thousand three hundred dollars  
9           (\$1,300) per degree; for each degree of permanent impairment  
10          above fifty (50), one thousand seven hundred dollars (\$1,700) per  
11          degree.
- 12          (3) With respect to disablements occurring on and after July 1,  
13          1993, and before July 1, 1997, for each degree of permanent  
14          impairment from one (1) to ten (10), five hundred dollars (\$500)  
15          per degree; for each degree of permanent impairment from eleven  
16          (11) to twenty (20), seven hundred dollars (\$700) per degree; for  
17          each degree of permanent impairment from twenty-one (21) to  
18          thirty-five (35), one thousand dollars (\$1,000) per degree; for  
19          each degree of permanent impairment from thirty-six (36) to fifty  
20          (50), one thousand four hundred dollars (\$1,400) per degree; for  
21          each degree of permanent impairment above fifty (50), one  
22          thousand seven hundred dollars (\$1,700) per degree.
- 23          (4) With respect to disablements occurring on and after July 1,  
24          1997, and before July 1, 1998, for each degree of permanent  
25          impairment from one (1) to ten (10), seven hundred fifty dollars  
26          (\$750) per degree; for each degree of permanent impairment from  
27          eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per  
28          degree; for each degree of permanent impairment from thirty-six  
29          (36) to fifty (50), one thousand four hundred dollars (\$1,400) per  
30          degree; for each degree of permanent impairment above fifty (50),  
31          one thousand seven hundred dollars (\$1,700) per degree.
- 32          (5) With respect to disablements occurring on and after July 1,  
33          1998, and before July 1, 1999, for each degree of permanent  
34          impairment from one (1) to ten (10), seven hundred fifty dollars  
35          (\$750) per degree; for each degree of permanent impairment from  
36          eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per  
37          degree; for each degree of permanent impairment from thirty-six

(36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2004**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

**(9) With respect to disablements occurring on and after July 1, 2004, and before July 1, 2005, for each degree of permanent impairment from one (1) to ten (10), one thousand nine hundred dollars (\$1,900) per degree; for each degree of permanent impairment from eleven (11) to**

thirty-five (35), two thousand one hundred dollars (\$2,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand six hundred dollars (\$3,600) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred six dollars (\$4,500) per degree.

(10) With respect to disablements occurring on and after July 1, 2005, and before July 1, 2006, for each degree of permanent impairment from one (1) to ten (10), two thousand one hundred dollars (\$2,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand three hundred dollars (\$2,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), four thousand dollars (\$4,000) per degree; for each degree of permanent impairment above fifty (50), five thousand dollars (\$5,000) per degree.

(11) With respect to disablements occurring on and after July 1, 2006, for each degree of permanent impairment from one (1) to ten (10), two thousand three hundred dollars (\$2,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand five hundred dollars (\$2,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), four thousand four hundred dollars (\$4,400) per degree; for each degree of permanent impairment above fifty (50), five thousand five hundred dollars (\$5,500) per degree.

~~(h)~~ (o) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections ~~(g)~~ and ~~(h)~~ (i) through (n) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars

- 1 (\$591).
- 2 (4) With respect to disablements occurring on or after July 1,
- 3 1994, and before July 1, 1997, six hundred forty-two dollars
- 4 (\$642).
- 5 (5) With respect to disablements occurring on or after July 1,
- 6 1997, and before July 1, 1998, six hundred seventy-two dollars
- 7 (\$672).
- 8 (6) With respect to disablements occurring on or after July 1,
- 9 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- 10 (7) With respect to disablements occurring on or after July 1,
- 11 1999, and before July 1, 2000, seven hundred thirty-two dollars
- 12 (\$732).
- 13 (8) With respect to disablements occurring on or after July 1,
- 14 2000, and before July 1, 2001, seven hundred sixty-two dollars
- 15 (\$762).
- 16 (9) With respect to ~~injuries~~ **disablements** occurring on or after
- 17 July 1, 2001, and before July 1, 2002, eight hundred twenty-two
- 18 dollars (\$822).
- 19 (10) With respect to ~~injuries~~ **disablements** occurring on or after
- 20 July 1, 2002, **and before July 1, 2004**, eight hundred eighty-two
- 21 dollars (\$882).
- 22 **(11) With respect to disablements occurring on or after July**
- 23 **1, 2004, and before July 1, 2005, one thousand two dollars**
- 24 **(\$1,002).**
- 25 **(12) With respect to disablements occurring on or after July**
- 26 **1, 2005, and before July 1, 2006, one thousand sixty-five**
- 27 **dollars (\$1,065).**
- 28 **(13) With respect to injuries occurring on or after July 1,**
- 29 **2006, one thousand one hundred twenty-two dollars (\$1,122).**
- 30 ~~(p)~~ **(p)** If any employee, only partially disabled, refuses employment
- 31 suitable to ~~his~~ **the employee's** capacity, ~~procured for him,~~ **he the**
- 32 **employee** shall not be entitled to any compensation at any time during
- 33 the continuance of such refusal unless, in the opinion of the worker's
- 34 compensation board, such refusal was justifiable. The employee must
- 35 be served with a notice setting forth the consequences of the refusal
- 36 under this subsection. The notice must be in a form prescribed by the

1 worker's compensation board.

2 ~~(k)~~ (q) If an employee has sustained a permanent impairment or  
 3 disability from an accidental injury other than an occupational disease  
 4 in another employment than that in which ~~he~~ **the employee** suffered a  
 5 subsequent disability from an occupational disease, such as herein  
 6 specified, the employee shall be entitled to compensation for the  
 7 subsequent disability in the same amount as if the previous impairment  
 8 or disability had not occurred. However, if the permanent impairment  
 9 or disability resulting from an occupational disease for which  
 10 compensation is claimed results only in the aggravation or increase of  
 11 a previously sustained permanent impairment from an occupational  
 12 disease or physical condition regardless of the source or cause of such  
 13 previously sustained impairment from an occupational disease or  
 14 physical condition, the board shall determine the extent of the previously  
 15 sustained permanent impairment from an occupational disease or  
 16 physical condition as well as the extent of the aggravation or increase  
 17 resulting from the subsequent permanent impairment or disability, and  
 18 shall award compensation only for that part of said occupational disease  
 19 or physical condition resulting from the subsequent permanent  
 20 impairment. An amputation of any part of the body or loss of any or all  
 21 of the vision of one (1) or both eyes caused by an occupational disease  
 22 shall be considered as a permanent impairment or physical condition.

23 ~~(h)~~ (r) If an employee suffers a disablement from occupational  
 24 disease for which compensation is payable while the employee is still  
 25 receiving or entitled to compensation for a previous injury by accident  
 26 or disability by occupational disease in the same employment, ~~he~~ **the**  
 27 **employee** shall not at the same time be entitled to compensation for  
 28 both, unless it be for a permanent injury, such as specified in subsection  
 29 ~~(g)(1), (g)(4), (g)(5), (g)(8)~~ (l)(1), (l)(4), (l)(5), (l)(8), (l)(9), (m)(1),  
 30 (m)(4), (m)(5), (m)(8), or ~~(g)(9)~~ (m)(9); but the employee shall be  
 31 entitled to compensation for that disability and from the time of that  
 32 disability which will cover the longest period and the largest amount  
 33 payable under this chapter.

34 ~~(m)~~ (s) If an employee receives a permanent disability from  
 35 occupational disease such as specified in subsection ~~(g)(1), (g)(4),~~  
 36 ~~(g)(5), (g)(8),~~ (l)(1), (l)(4), (l)(5), (l)(8), (l)(9), (m)(1), (m)(4),  
 37 (m)(5), (m)(8), or ~~(g)(9)~~ (m)(9) after having sustained another such



1 permanent disability in the same employment the employee shall be  
 2 entitled to compensation for both such disabilities, but the total  
 3 compensation shall be paid by extending the period and not by  
 4 increasing the amount of weekly compensation and, when such  
 5 previous and subsequent permanent disabilities, in combination result in  
 6 total permanent disability or permanent total impairment, compensation  
 7 shall be payable for such permanent total disability or impairment, but  
 8 payments made for the previous disability or impairment shall be  
 9 deducted from the total payment of compensation due.

10 ~~(n) When an employee has been awarded or is entitled to an award~~  
 11 ~~of compensation for a definite period under this chapter for disability~~  
 12 ~~from occupational disease, which disablement occurs on and after April~~  
 13 ~~1, 1951, and prior to April 1, 1963, and such employee dies from any~~  
 14 ~~other cause than such occupational disease, payment of the unpaid~~  
 15 ~~balance of such compensation, not exceeding three hundred (300)~~  
 16 ~~weeks, shall be made to the employee's dependents of the second and~~  
 17 ~~third class as defined in sections 11 through 14 of this chapter, and~~  
 18 ~~compensation, not exceeding five hundred (500) weeks, shall be made~~  
 19 ~~to the employee's dependents of the first class as defined in sections 11~~  
 20 ~~through 14 of this chapter: (t) When an employee has been awarded or~~  
 21 ~~is entitled to an award of compensation for a definite period from an~~  
 22 ~~occupational disease wherein disablement occurs on and after April 1,~~  
 23 ~~1963, and such employee dies from other causes than such~~  
 24 ~~occupational disease, payment of the unpaid balance of such~~  
 25 ~~compensation not exceeding three hundred fifty (350) weeks shall be~~  
 26 ~~paid to the employee's dependents of the second and third class as~~  
 27 ~~defined in sections 11 through 14 of this chapter and compensation, not~~  
 28 ~~exceeding five hundred (500) weeks shall be made to the employee's~~  
 29 ~~dependents of the first class as defined in sections 11 through 14 of this~~  
 30 ~~chapter.~~

31 ~~(s)~~ (u) Any payment made by the employer to the employee during  
 32 the period of the employee's disability, or to the employee's dependents,  
 33 which, by the terms of this chapter, was not due and payable when  
 34 made, may, subject to the approval of the worker's compensation  
 35 board, be deducted from the amount to be paid as compensation, but  
 36 such deduction shall be made from the distal end of the period during  
 37 which compensation must be paid, except in cases of temporary

1 disability.

2 ~~(p)~~ (v) When so provided in the compensation agreement or in the  
3 award of the worker's compensation board, compensation may be paid  
4 semimonthly, or monthly, instead of weekly.

5 ~~(q)~~ (w) When the aggregate payments of compensation awarded by  
6 agreement or upon hearing to an employee or dependent under eighteen  
7 (18) years of age do not exceed one hundred dollars (\$100), the  
8 payment thereof may be made directly to such employee or dependent,  
9 except when the worker's compensation board shall order otherwise.

10 (x) Whenever the aggregate payments of compensation, due to any  
11 person under eighteen (18) years of age, exceed one hundred dollars  
12 (\$100), the payment thereof shall be made to a trustee, appointed by the  
13 circuit or superior court, or to a duly qualified guardian, or, upon the  
14 order of the worker's compensation board, to a parent or to such minor  
15 person. The payment of compensation, due to any person eighteen (18)  
16 years of age or over, may be made directly to such person.

17 ~~(r)~~ (y) If an employee, or a dependent, is mentally incompetent, or  
18 a minor at the time when any right or privilege accrues to the employee  
19 under this chapter, the employee's guardian or trustee may, in the  
20 employee's behalf, claim and exercise such right and privilege.

21 ~~(s)~~ (z) All compensation payments named and provided for in this  
22 section, shall mean and be defined to be for only such occupational  
23 diseases and disabilities therefrom as are proved by competent evidence,  
24 of which there are or have been objective conditions or symptoms  
25 proven, not within the physical or mental control of the employee  
26 himself.

27 SECTION 22. IC 22-3-7-16.1 IS ADDED TO THE INDIANA  
28 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2004]: **Sec. 16.1. (a) This section applies only to**  
30 **disablements occurring after June 30, 1999, for which awards are**  
31 **made by the board under this chapter.**

32 **(b) On or after January 1, 2006, if an employee who is entitled**  
33 **to compensation under this chapter either:**

34 **(1) exhausts the maximum benefits under this chapter**  
35 **without having received the full amount of award granted to**  
36 **the employee under this chapter; or**

(2) exhausts the employee's benefits under this chapter;  
 the employee may apply to the worker's compensation board,  
 which may award the employee compensation from the second  
 injury fund under IC 22-3-4-15 as provided in subsection (c).

(c) An employee who has exhausted the employee's maximum  
 benefits under this chapter may be awarded additional  
 compensation equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ )  
 of the employee's average weekly wage at the time of the  
 employee's disablement from occupational disease, not to exceed  
 the maximum applicable under this chapter for a period not to  
 exceed one hundred fifty (150) weeks upon competent evidence  
 sufficient to establish:

(1) that the employee is totally and permanently disabled  
 from an occupational disease of which there are or have been  
 objective conditions and symptoms proven that are not within  
 the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in  
 any gainful employment, not associated with rehabilitative or  
 vocational therapy.

(d) The additional award may be renewed during the employee's  
 period of total and permanent disability after appropriate hearings  
 by the worker's compensation board for successive periods not to  
 exceed one hundred fifty (150) weeks each.

(e) Section 11 of this chapter does not apply to compensation  
 awarded from the second injury fund under this section.

SECTION 23. IC 22-3-7-16.5 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2004]: Sec. 16.5. (a) If an employee:

(1) suffers an occupational disease that results in a  
 temporary total disability or a temporary partial disability;

(2) is capable of performing work with permanent limitations  
 or restrictions that prevent the employee from returning to  
 the position the employee held before the employee's  
 occupational disease; and

(3) is enrolled in a training program approved by:

1           (A) the incumbent workers training board established by  
2           IC 22-4-18.3-2; or

3           (B) the Indiana unemployment insurance board created by  
4           IC 22-4-18-2;

5           the employee may receive disabled from trade compensation.

6           (b) An employee may receive disabled from trade compensation  
7           for a period not to exceed:

8                 (1) fifty-two (52) consecutive weeks; or

9                 (2) seventy-eight (78) total weeks.

10          (c) An employee is entitled to receive disabled from trade  
11          compensation in a weekly amount equal to the difference between  
12          the employee's average weekly wage from employment at the  
13          time of the injury and the employee's average weekly wage from  
14          employment after the injury with the permanent restrictions or  
15          limitations resulting from the injury.

16          (d) The amount of disabled from trade compensation may not  
17          exceed the maximum average weekly wage amounts set forth in  
18          section 19 of this chapter.

19          (e) Not later than sixty (60) days after the employee's release  
20          to return to work with restrictions or limitations, the employee  
21          must receive notice from the employer on a form provided by the  
22          board that informs the employee that the employee has been  
23          released to work with limitations or restrictions. The notice must  
24          include:

25                 (1) an explanation of the limitations or restrictions placed on  
26                 the employee;

27                 (2) the amount of disabled from trade compensation the  
28                 employee has been awarded; and

29                 (3) information for the employee regarding the terms of this  
30                 section.

31          (f) Disabled from trade compensation is in addition to any other  
32          compensation awarded to an employee as a result of a temporary  
33          total disability or a permanent partial impairment.

34          (g) An employer may unilaterally convert an award of  
35          compensation for a temporary total disability or a temporary

1 **partial disability into disabled from trade compensation by filing**  
 2 **a copy of the notice required under subsection (e) with the board.**

3 SECTION 24. IC 22-3-7-17, AS AMENDED BY P.L.31-2000,  
 4 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2004]: Sec. 17. (a) During the period of disablement, the  
 6 employer shall furnish or cause to be furnished, free of charge to the  
 7 employee, an attending physician for the treatment of ~~his~~ **the**  
 8 **employee's** occupational disease, and in addition thereto such surgical,  
 9 hospital, and nursing services and supplies as the attending physician or  
 10 the worker's compensation board may deem necessary. If the employee  
 11 is requested or required by the employer to submit to treatment outside  
 12 the county of employment, the employer shall also pay the reasonable  
 13 expense of travel, food, and lodging necessary during the travel, but not  
 14 to exceed the amount paid at the time of the travel by the state of  
 15 Indiana to its employees. If the treatment or travel to or from the place  
 16 of treatment causes a loss of working time to the employee, the  
 17 employer shall reimburse the employee for the loss of wages using the  
 18 basis of the employee's average daily wage.

19 (b) During the period of disablement resulting from the occupational  
 20 disease, the employer shall furnish such physician, services, and  
 21 supplies, and the worker's compensation board may, on proper  
 22 application of either party, require that treatment by such physician and  
 23 such services and supplies be furnished by or on behalf of the employer  
 24 as the board may deem reasonably necessary. After an employee's  
 25 occupational disease has been adjudicated by agreement or award on the  
 26 basis of permanent partial impairment and within the statutory period  
 27 for review in such case as provided in section 27(i) of this chapter, the  
 28 employer may continue to furnish a physician or a surgeon and other  
 29 medical services and supplies, and the board may, within such statutory  
 30 period for review as provided in section 27(i) of this chapter, on a  
 31 proper application of either party, require that treatment by such  
 32 physician or surgeon and such services and supplies be furnished by  
 33 and on behalf of the employer as the board may deem necessary to limit  
 34 or reduce the amount and extent of such impairment. The refusal of the  
 35 employee to accept such services and supplies when so provided by or  
 36 on behalf of the employer, shall bar the employee from all compensation  
 37 otherwise payable during the period of such refusal and ~~his~~ **the**

**employee's** right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's** disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

**(c) After the employee's medical treatment with an attending physician described in subsection (a) begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:**

**(1) the employee signs a written informed consent to the transfer or redirection that acknowledges the employee's right to refuse the transfer or redirection;**

**(2) the employee requests the transfer or redirection;**

**(3) the attending physician requests that:**

**(A) the attending physician's treatment of the employee be discontinued; or**

**(B) the treatment be transferred or redirected to a physician practicing a different specialty; or**

**(4) the worker's compensation board determines that there is good cause for the transfer or redirection.**

**(d) If the employer or the employer's insurance carrier desires to transfer or redirect the employee's medical treatment under subsection (c)(4) for good cause, the employer or the employer's insurance carrier shall file a transfer request with the worker's compensation board on forms prescribed by the board. A transfer may not occur until the worker's compensation board issues an order granting the transfer request.**

**(e) Regardless of when it occurs, where a compensable**

1 occupational disease results in the amputation of a body part, the  
 2 enucleation of an eye, or the loss of natural teeth, the employer shall  
 3 furnish an appropriate artificial member, braces, and prosthodontics.  
 4 The cost of repairs to or replacements for the artificial members,  
 5 braces, or prosthodontics that result from a compensable occupational  
 6 disease pursuant to a prior award and are required due to either medical  
 7 necessity or normal wear and tear, determined according to the  
 8 employee's individual use, but not abuse, of the artificial member,  
 9 braces, or prosthodontics, shall be paid from the second injury fund  
 10 upon order or award of the worker's compensation board. The  
 11 employee is not required to meet any other requirement for admission  
 12 to the second injury fund.

13 ~~(d)~~ (f) If an emergency or because of the employer's failure to  
 14 provide such attending physician or such surgical, hospital, or nurse's  
 15 services and supplies or such treatment by spiritual means or prayer as  
 16 specified in this section, or for other good reason, a physician other  
 17 than that provided by the employer treats the diseased employee within  
 18 the period of disability, or necessary and proper surgical, hospital, or  
 19 nurse's services and supplies are procured within the period, the  
 20 reasonable cost of such services and supplies shall, subject to approval  
 21 of the worker's compensation board, be paid by the employer.

22 ~~(e)~~ (g) This section may not be construed to prohibit an agreement  
 23 between an employer and employees that has the approval of the board  
 24 and that:

- 25 (1) binds the parties to medical care furnished by providers
- 26 selected by agreement before or after disablement; or
- 27 (2) makes the findings of a provider chosen in this manner binding
- 28 upon the parties.

29 ~~(f)~~ (h) The employee and the employee's estate do not have liability  
 30 to a health care provider for payment for services obtained under this  
 31 section. The right to order payment for all services provided under this  
 32 chapter is solely with the board. All claims by a health care provider for  
 33 payment for services are against the employer and the employer's  
 34 insurance carrier, if any, and must be made with the board under this  
 35 chapter.

36 SECTION 25. IC 22-3-7-19, AS AMENDED BY P.L.31-2000,  
 37 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars (\$135); and

(B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars (\$156); and

(B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars (\$180); and

(B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars (\$195); and

(B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars (\$210); and

(B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars (\$234); and

(B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars (\$249); and

(B) not less than seventy-five dollars (\$75).

(b) (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars (\$267); and

(2) not less than seventy-five dollars (\$75).



~~(c)~~ **(b)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars (\$285); and

(2) not less than seventy-five dollars (\$75).

~~(d)~~ **(c)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars (\$384); and

(2) not less than seventy-five dollars (\$75).

~~(e)~~ **(d)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars (\$411); and

(2) not less than seventy-five dollars (\$75).

~~(f)~~ **(e)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars (\$441); and

(2) not less than seventy-five dollars (\$75).

~~(g)~~ **(f)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars (\$492); and

(2) not less than seventy-five dollars (\$75).

~~(h)~~ **(g)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars (\$540); and

(2) not less than seventy-five dollars (\$75).

~~(i)~~ **(h)** In computing compensation for temporary total disability,

temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

~~(i)~~ (i) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

~~(j)~~ (j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and
- (B) not less than seventy-five dollars (\$75);

- (2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and
- (B) not less than seventy-five dollars (\$75);

- (3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732);
- and

- (B) not less than seventy-five dollars (\$75);

- (4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);

- (5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:

- (A) not more than eight hundred twenty-two dollars (\$822);
- and

- (B) not less than seventy-five dollars (\$75); ~~and~~

- (6) with respect to disablements occurring on and after July 1,

2002, and before July 1, 2004:

(A) not more than eight hundred eighty-two dollars (\$882); and

(B) not less than seventy-five dollars (\$75);

(7) with respect to disablements occurring on and after July 1, 2004, and before July 1, 2005:

(A) not more than one thousand two dollars (\$1,002); and

(B) not less than forty (40) times the state minimum wage established by IC 22-2-2;

(8) with respect to disablements occurring on and after July 1, 2005, and before July 1, 2006:

(A) not more than one thousand sixty-two dollars (\$1,062);

and

(B) not less than forty (40) times the state minimum wage established by IC 22-2-2; and

(9) with respect to disablements occurring on and after July 2, 2006;

(A) not more than one thousand one hundred twenty-two dollars (\$1,122); and

(B) not less than forty (40) times the state minimum wage established by IC 22-2-2.

However, the weekly compensation payable shall not exceed the actual average weekly wages of the employee at the time of the disablement.

(†) The maximum compensation that shall be paid for occupational disease and its results under any one (†) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;

1           ~~(6)~~ on and after July 1, 1983, and before July 1, 1984, may not  
 2           exceed seventy-eight thousand dollars (\$78,000) in any case; and  
 3           ~~(7)~~ on and after July 1, 1984, and before July 1, 1985, may not  
 4           exceed eighty-three thousand dollars (\$83,000) in any case.

5           ~~(m)~~ **(k)** The maximum compensation with respect to disability or  
 6           death occurring on and after July 1, 1985, and before July 1, 1986,  
 7           which shall be paid for occupational disease and the results thereof  
 8           under the provisions of this chapter or under any combination of its  
 9           provisions may not exceed eighty-nine thousand dollars (\$89,000) in  
 10          any case. The maximum compensation with respect to disability or  
 11          death occurring on and after July 1, 1986, and before July 1, 1988,  
 12          which shall be paid for occupational disease and the results thereof  
 13          under the provisions of this chapter or under any combination of its  
 14          provisions may not exceed ninety-five thousand dollars (\$95,000) in any  
 15          case. The maximum compensation with respect to disability or death  
 16          occurring on and after July 1, 1988, and before July 1, 1989, that shall  
 17          be paid for occupational disease and the results thereof under this  
 18          chapter or under any combination of its provisions may not exceed one  
 19          hundred twenty-eight thousand dollars (\$128,000) in any case.

20          ~~(n)~~ **(l)** The maximum compensation with respect to disability or  
 21          death occurring on and after July 1, 1989, and before July 1, 1990, that  
 22          shall be paid for occupational disease and the results thereof under this  
 23          chapter or under any combination of its provisions may not exceed one  
 24          hundred thirty-seven thousand dollars (\$137,000) in any case.

25          ~~(o)~~ **(m)** The maximum compensation with respect to disability or  
 26          death occurring on and after July 1, 1990, and before July 1, 1991, that  
 27          shall be paid for occupational disease and the results thereof under this  
 28          chapter or under any combination of its provisions may not exceed one  
 29          hundred forty-seven thousand dollars (\$147,000) in any case.

30          ~~(p)~~ **(n)** The maximum compensation with respect to disability or  
 31          death occurring on and after July 1, 1991, and before July 1, 1992, that  
 32          shall be paid for occupational disease and the results thereof under this  
 33          chapter or under any combination of the provisions of this chapter may  
 34          not exceed one hundred sixty-four thousand dollars (\$164,000) in any  
 35          case.

36          ~~(q)~~ **(o)** The maximum compensation with respect to disability or  
 37          death occurring on and after July 1, 1992, and before July 1, 1993, that

1 shall be paid for occupational disease and the results thereof under this  
 2 chapter or under any combination of the provisions of this chapter may  
 3 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

4 ~~(r)~~ (p) The maximum compensation with respect to disability or  
 5 death occurring on and after July 1, 1993, and before July 1, 1994, that  
 6 shall be paid for occupational disease and the results thereof under this  
 7 chapter or under any combination of the provisions of this chapter may  
 8 not exceed one hundred ninety-seven thousand dollars (\$197,000) in  
 9 any case.

10 ~~(s)~~ (q) The maximum compensation with respect to disability or  
 11 death occurring on and after July 1, 1994, and before July 1, 1997, that  
 12 shall be paid for occupational disease and the results thereof under this  
 13 chapter or under any combination of the provisions of this chapter may  
 14 not exceed two hundred fourteen thousand dollars (\$214,000) in any  
 15 case.

16 ~~(t)~~ (r) The maximum compensation that shall be paid for  
 17 occupational disease and the results of an occupational disease under  
 18 this chapter or under any combination of the provisions of this chapter  
 19 may not exceed the following amounts in any case:

20 (1) With respect to disability or death occurring on and after July  
 21 1, 1997, and before July 1, 1998, two hundred twenty-four  
 22 thousand dollars (\$224,000).

23 (2) With respect to disability or death occurring on and after July  
 24 1, 1998, and before July 1, 1999, two hundred thirty-four  
 25 thousand dollars (\$234,000).

26 (3) With respect to disability or death occurring on and after July  
 27 1, 1999, and before July 1, 2000, two hundred forty-four  
 28 thousand dollars (\$244,000).

29 (4) With respect to disability or death occurring on and after July  
 30 1, 2000, and before July 1, 2001, two hundred fifty-four thousand  
 31 dollars (\$254,000).

32 (5) With respect to disability or death occurring on and after July  
 33 1, 2001, and before July 1, 2002, two hundred seventy-four  
 34 thousand dollars (\$274,000).

35 (6) With respect to disability or death occurring on and after July  
 36 1, 2002, **and before July 1, 2004**, two hundred ninety-four  
 37 thousand dollars (\$294,000).

(7) With respect to disability or death occurring on and after July 1, 2004, and before July 1, 2005, three hundred thirty-four thousand dollars (\$334,000).

(8) With respect to disability or death occurring on and after July 1, 2005, and before July 1, 2006, three hundred fifty-four thousand dollars (\$354,000).

(9) With respect to disability or death occurring on and after July 1, 2006, three hundred seventy-four thousand dollars (\$374,000).

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period; although not in the same week; then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks; the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined; regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer; or if there is no person so employed; by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract; they shall be deemed a part of the employee's earnings.

(v) (s) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee

during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

~~(w)~~ (t) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars (\$75,000).

SECTION 26. IC 22-3-7-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) The worker's compensation board may make rules not inconsistent with this chapter for carrying out the provisions of this chapter. Processes and procedures under this chapter shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the

power, for the purpose of this chapter, to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The county sheriff shall serve all subpoenas of the board and **board ombudsmen appointed under IC 22-3-1-1 and** shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts. The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

(b) The fees of attorneys and physicians and charges of nurses and hospitals for services under this chapter shall be subject to the approval of the worker's compensation board. When any claimant for compensation is represented by an attorney in the prosecution of ~~his~~ **the claimant's** claim, the board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fees. The fee so fixed shall be binding upon both the claimant and ~~his~~ **the claimant's** attorney, and the employer shall pay to the attorney, out of the award, the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award.

(c) Whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the board shall determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney's fees shall be paid to the attorney and shall not be charged against the award to the claimant. Such fees as are fixed and awarded on account of a lack of diligence or because of bad faith on the part of the employer shall not be less than one hundred fifty dollars (\$150).

(d) The worker's compensation board may withhold the approval of the fees of the attending physician in any case until ~~he shall file the~~ **attending physician files** a report with the board on the form prescribed by such board.

SECTION 27. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,



1 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2004]: Sec. 27. (a) If the employer and the employee or the  
3 employee's dependents disagree in regard to the compensation payable  
4 under this chapter, or, if they have reached such an agreement, which  
5 has been signed by them, filed with and approved by the worker's  
6 compensation board, and afterward disagree as to the continuance of  
7 payments under such agreement, or as to the period for which  
8 payments shall be made, or as to the amount to be paid, because of a  
9 change in conditions since the making of such agreement, either party  
10 may then make an application to the board for the determination of the  
11 matters in dispute. When compensation which is payable in accordance  
12 with an award or by agreement approved by the board is ordered paid  
13 in a lump sum by the board, no review shall be had as in this subsection  
14 mentioned.

15 (b) The application making claim for compensation filed with the  
16 worker's compensation board shall state the following:

17 (1) The approximate date of the last day of the last exposure and  
18 the approximate date of the disablement.

19 (2) The general nature and character of the illness or disease  
20 claimed.

21 (3) The name and address of the employer by whom employed on  
22 the last day of the last exposure, and if employed by any other  
23 employer after such last exposure and before disablement, the  
24 name and address of such other employer or employers.

25 (4) In case of death, the date and place of death.

26 (5) Amendments to applications making claim for compensation  
27 which relate to the same disablement or disablement resulting in  
28 death originally claimed upon may be allowed by the board in its  
29 discretion, and, in the exercise of such discretion, it may, in  
30 proper cases, order a trial de novo. Such amendment shall relate  
31 back to the date of the filing of the original application so  
32 amended.

33 (c) Upon the filing of such application, the board shall set the date  
34 of hearing, which shall be as early as practicable, and shall notify the  
35 parties, in the manner prescribed by the board, of the time and place of  
36 hearing. The hearing of all claims for compensation on account of  
37 occupational disease shall be held in the county in which the last

1 exposure occurred or in any adjoining county, except when the parties  
2 consent to a hearing elsewhere. Claims assigned to an individual board  
3 member that are considered to be of an emergency nature by that board  
4 member, may be heard in any county within the board member's  
5 jurisdiction.

6 (d) The board by any or all of its members **or by board**  
7 **ombudsmen appointed under IC 22-3-1-1** shall hear the parties at  
8 issue, their representatives, and witnesses, and shall determine the  
9 dispute in a summary manner. The award shall be filed with the record  
10 of proceedings, and a copy thereof shall immediately be sent by  
11 registered mail to each of the parties in dispute.

12 (e) If an application for review is made to the board within thirty  
13 (30) days from the date of the award made by less than all the  
14 members, the full board, if the first hearing was not held before the full  
15 board, shall review the evidence, or, if deemed advisable, hear the  
16 parties at issue, their representatives, and witnesses as soon as  
17 practicable, and shall make an award and file the same with the finding  
18 of the facts on which it is based and send a copy thereof to each of the  
19 parties in dispute, in like manner as specified in subsection (d).

20 (f) An award of the board by less than all of the members as  
21 provided in this section, if not reviewed as provided in this section, shall  
22 be final and conclusive. An award by the full board shall be conclusive  
23 and binding unless either party to the dispute, within thirty (30) days  
24 after receiving a copy of such award, appeals to the court of appeals  
25 under the same terms and conditions as govern appeals in ordinary civil  
26 actions. The court of appeals shall have jurisdiction to review all  
27 questions of law and of fact. The board, of its own motion, may certify  
28 questions of law to the court of appeals for its decision and  
29 determination. An assignment of errors that the award of the full board  
30 is contrary to law shall be sufficient to present both the sufficiency of  
31 the facts found to sustain the award and the sufficiency of the evidence  
32 to sustain the finding of facts. All such appeals and certified questions  
33 of law shall be submitted upon the date filed in the court of appeals,  
34 shall be advanced upon the docket of the court, and shall be determined  
35 at the earliest practicable date, without any extensions of time for filing  
36 briefs. An award of the full board affirmed on appeal, by the employer,  
37 shall be increased thereby five percent (5%), and by order of the court

1 may be increased ten percent (10%).

2 (g) Upon order of the worker's compensation board made after five  
3 (5) days notice is given to the opposite party, any party in interest may  
4 file in the circuit or superior court of the county in which the  
5 disablement occurred a certified copy of:

6 (1) the memorandum of agreement, approved by the board; ~~or of~~

7 (2) an order or decision of the board; ~~or of~~

8 (3) an award of the full board unappealed from; or ~~of~~

9 (4) an award of the full board affirmed upon an appeal;

10 whereupon the court shall render judgment in accordance therewith and  
11 notify the parties. Such judgment shall have the same effect and all  
12 proceedings in relation thereto shall thereafter be the same as though  
13 such judgment has been rendered in a suit duly heard and determined by  
14 the court. Any such judgment of such circuit or superior court,  
15 unappealed from or affirmed on appeal or modified in obedience to the  
16 mandate of the court of appeals, shall be modified to conform to any  
17 decision of the industrial board ending, diminishing, or increasing any  
18 weekly payment under the provisions of subsection ~~(j)~~ (k) upon the  
19 presentation to it of a certified copy of such decision.

20 (h) **An employer shall pay a judgment entered under subsection**  
21 **(g) not later than thirty (30) days after the date the judgment is**  
22 **final.**

23 (i) **An employer that fails to pay a judgment under this section**  
24 **by the time required by subsection (h) shall pay the employee for**  
25 **each day that the amount due the employee remains unpaid a**  
26 **penalty equal to ten percent (10%) of the amount awarded the**  
27 **employee in addition to the amount due. The maximum penalty**  
28 **payable under this subsection is twice the unpaid amount due the**  
29 **employee. The employee may recover the unpaid judgment and**  
30 **the penalty described in this subsection in any court having**  
31 **jurisdiction of a suit to collect the unpaid judgment along with**  
32 **reasonable attorney's fees.**

33 (j) In all proceedings before the worker's compensation board or in  
34 a court under the compensation provisions of this chapter, the costs  
35 shall be awarded and taxed as provided by law in ordinary civil actions  
36 in the circuit court. **Prejudgment interest shall be awarded at a rate**

1 **of ten percent (10%) per year, accruing from the date of filing of**  
 2 **the application for adjustment of claim as determined under**  
 3 **subsection (a).**

4 ~~(j)~~ **(k)** The power and jurisdiction of the worker's compensation  
 5 board over each case shall be continuing, and, from time to time, it  
 6 may, upon its own motion or upon the application of either party on  
 7 account of a change in conditions, make such modification or change  
 8 in the award ending, lessening, continuing, or extending the payments  
 9 previously awarded, either by agreement or upon hearing, as it may  
 10 deem just, subject to the maximum and minimum provided for in this  
 11 chapter. When compensation which is payable in accordance with an  
 12 award or settlement contract approved by the board is ordered paid in  
 13 a lump sum by the board, no review shall be had as in this subsection  
 14 mentioned. Upon making any such change, the board shall immediately  
 15 send to each of the parties a copy of the modified award. No such  
 16 modification shall affect the previous award as to any money paid  
 17 thereunder. The board shall not make any ~~such~~ modification upon its  
 18 own motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by either  
 19 party after the expiration of two (2) years from **the latest of the**  
 20 **following:**

21 **(1) the last day for which compensation was paid ~~under the~~**  
 22 **~~original award made either by agreement or upon hearing; except~~**  
 23 **~~that applications for increased permanent partial impairment are~~**  
 24 **~~barred unless filed within one (1) year from the last day for which~~**  
 25 **~~compensation was paid; for temporary total disability,~~**  
 26 **~~permanent partial impairment, or permanent total disability.~~**

27 **(2) The date of an award for temporary total disability,**  
 28 **permanent partial impairment, or permanent total disability.**

29 **(3) The last day that medical expenses under section 17 of**  
 30 **this chapter were provided to the employee.**

31 The board may at any time correct any clerical error in any finding or  
 32 award.

33 ~~(j)~~ **(l)** The board or any member thereof may, upon the application  
 34 of either party or upon its own motion, appoint a disinterested and duly  
 35 qualified physician or surgeon to make any necessary medical  
 36 examination of the employee and to testify in respect thereto. Such

1 physician or surgeon shall be allowed traveling expenses and a  
 2 reasonable fee, to be fixed by the board. The fees and expenses of such  
 3 physician or surgeon shall be paid by the state only on special order of  
 4 the board or a member thereof.

5 ~~(k)~~ **(m)** The board or any member thereof may, upon the application  
 6 of either party or upon its own motion, appoint a disinterested and duly  
 7 qualified industrial hygienist, industrial engineer, industrial physician, or  
 8 chemist to make any necessary investigation of the occupation in which  
 9 the employee alleges that ~~he~~ **the employee** was last exposed to the  
 10 hazards of the occupational disease claimed upon, and testify with  
 11 respect to the occupational disease health hazards found by such person  
 12 or persons to exist in such occupation. Such person or persons shall be  
 13 allowed traveling expenses and a reasonable fee, to be fixed by the  
 14 board. The fees and expenses of such persons shall be paid by the state,  
 15 only on special order of the board or a member thereof.

16 ~~(h)~~ **(n)** Whenever any claimant misconceives the claimant's remedy  
 17 and files an application for adjustment of a claim under IC 22-3-2  
 18 through IC 22-3-6 and it is subsequently discovered, at any time before  
 19 the final disposition of such cause, that the claim for injury or death  
 20 which was the basis for such application should properly have been  
 21 made under the provisions of this chapter, then the application so filed  
 22 under IC 22-3-2 through IC 22-3-6 may be amended in form or  
 23 substance or both to assert a claim for such disability or death under the  
 24 provisions of this chapter, and it shall be deemed to have been so filed  
 25 as amended on the date of the original filing thereof, and such  
 26 compensation may be awarded as is warranted by the whole evidence  
 27 pursuant to the provisions of this chapter. When such amendment is  
 28 submitted, further or additional evidence may be heard by the worker's  
 29 compensation board when deemed necessary. Nothing in this section  
 30 contained shall be construed to be or permit a waiver of any of the  
 31 provisions of this chapter with reference to notice or time for filing a  
 32 claim, but notice of filing of a claim, if given or done, shall be deemed  
 33 to be a notice or filing of a claim under the provisions of this chapter if  
 34 given or done within the time required in this chapter.

35 SECTION 28. IC 27-4-1-4, AS AMENDED BY P.L.178-2003,  
 36 SECTION 35, AS AMENDED BY P.L.201-2003, SECTION 2, AND  
 37 AS AMENDED BY P.L.211-2003, SECTION 1, IS CORRECTED AND

1 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

2 Sec. 4. The following are hereby defined as unfair methods of  
3 competition and unfair and deceptive acts and practices in the business  
4 of insurance:

5 (1) Making, issuing, circulating, or causing to be made, issued, or  
6 circulated, any estimate, illustration, circular, or statement:

7 (A) misrepresenting the terms of any policy issued or to be  
8 issued or the benefits or advantages promised thereby or the  
9 dividends or share of the surplus to be received thereon;

10 (B) making any false or misleading statement as to the  
11 dividends or share of surplus previously paid on similar  
12 policies;

13 (C) making any misleading representation or any  
14 misrepresentation as to the financial condition of any insurer,  
15 or as to the legal reserve system upon which any life insurer  
16 operates;

17 (D) using any name or title of any policy or class of policies  
18 misrepresenting the true nature thereof; or

19 (E) making any misrepresentation to any policyholder insured  
20 in any company for the purpose of inducing or tending to  
21 induce such policyholder to lapse, forfeit, or surrender ~~his~~ *the*  
22 *policyholder's* insurance.

23 (2) Making, publishing, disseminating, circulating, or placing  
24 before the public, or causing, directly or indirectly, to be made,  
25 published, disseminated, circulated, or placed before the public, in  
26 a newspaper, magazine, or other publication, or in the form of a  
27 notice, circular, pamphlet, letter, or poster, or over any radio or  
28 television station, or in any other way, an advertisement,  
29 announcement, or statement containing any assertion,  
30 representation, or statement with respect to any person in the  
31 conduct of ~~his~~ *the person's* insurance business, which is untrue,  
32 deceptive, or misleading.

33 (3) Making, publishing, disseminating, or circulating, directly or  
34 indirectly, or aiding, abetting, or encouraging the making,  
35 publishing, disseminating, or circulating of any oral or written  
36 statement or any pamphlet, circular, article, or literature which is  
37 false, or maliciously critical of or derogatory to the financial

1 condition of an insurer, and which is calculated to injure any  
2 person engaged in the business of insurance.

3 (4) Entering into any agreement to commit, or individually or by  
4 a concerted action committing any act of boycott, coercion, or  
5 intimidation resulting or tending to result in unreasonable restraint  
6 of, or a monopoly in, the business of insurance.

7 (5) Filing with any supervisory or other public official, or making,  
8 publishing, disseminating, circulating, or delivering to any person,  
9 or placing before the public, or causing directly or indirectly, to be  
10 made, published, disseminated, circulated, delivered to any person,  
11 or placed before the public, any false statement of financial  
12 condition of an insurer with intent to deceive. Making any false  
13 entry in any book, report, or statement of any insurer with intent  
14 to deceive any agent or examiner lawfully appointed to examine  
15 into its condition or into any of its affairs, or any public official to  
16 which such insurer is required by law to report, or which has  
17 authority by law to examine into its condition or into any of its  
18 affairs, or, with like intent, willfully omitting to make a true entry  
19 of any material fact pertaining to the business of such insurer in  
20 any book, report, or statement of such insurer.

21 (6) Issuing or delivering or permitting agents, officers, or  
22 employees to issue or deliver, agency company stock or other  
23 capital stock, or benefit certificates or shares in any common law  
24 corporation, or securities or any special or advisory board  
25 contracts or other contracts of any kind promising returns and  
26 profits as an inducement to insurance.

27 (7) Making or permitting any of the following:

28 (A) Unfair discrimination between individuals of the same class  
29 and equal expectation of life in the rates or assessments  
30 charged for any contract of life insurance or of life annuity or  
31 in the dividends or other benefits payable thereon, or in any  
32 other of the terms and conditions of such contract; however,  
33 in determining the class, consideration may be given to the  
34 nature of the risk, plan of insurance, the actual or expected  
35 expense of conducting the business, or any other relevant  
36 factor.

37 (B) Unfair discrimination between individuals of the same class

1 involving essentially the same hazards in the amount of  
 2 premium, policy fees, assessments, or rates charged or made  
 3 for any policy or contract of accident or health insurance or in  
 4 the benefits payable thereunder, or in any of the terms or  
 5 conditions of such contract, or in any other manner whatever;  
 6 however, in determining the class, consideration may be given  
 7 to the nature of the risk, the plan of insurance, the actual or  
 8 expected expense of conducting the business, or any other  
 9 relevant factor.

10 (C) Excessive or inadequate charges for premiums, policy  
 11 fees, assessments, or rates, or making or permitting any unfair  
 12 discrimination between persons of the same class involving  
 13 essentially the same hazards, in the amount of premiums,  
 14 policy fees, assessments, or rates charged or made for:

15 (i) policies or contracts of reinsurance or joint reinsurance,  
 16 or abstract and title insurance;

17 (ii) policies or contracts of insurance against loss or damage  
 18 to aircraft, or against liability arising out of the ownership,  
 19 maintenance, or use of any aircraft, or of vessels or craft,  
 20 their cargoes, marine builders' risks, marine protection and  
 21 indemnity, or other risks commonly insured under marine, as  
 22 distinguished from inland marine, insurance; or

23 (iii) policies or contracts of any other kind or kinds of  
 24 insurance whatsoever.

25 However, nothing contained in clause (C) shall be construed to  
 26 apply to any of the kinds of insurance referred to in clauses (A)  
 27 and (B) nor to reinsurance in relation to such kinds of insurance.  
 28 Nothing in clause (A), (B), or (C) shall be construed as making or  
 29 permitting any excessive, inadequate, or unfairly discriminatory  
 30 charge or rate or any charge or rate determined by the department  
 31 or commissioner to meet the requirements of any other insurance  
 32 rate regulatory law of this state.

33 (8) Except as otherwise expressly provided by law, knowingly  
 34 permitting or offering to make or making any contract or policy  
 35 of insurance of any kind or kinds whatsoever, including but not in  
 36 limitation, life annuities, or agreement as to such contract or policy  
 37 other than as plainly expressed in such contract or policy issued



thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or ~~agent~~ *insurance producer* thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ *insurance producer* thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent, an insurance producer, or a~~ solicitor duly licensed under

the laws of this state, but such broker, ~~agent~~, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent~~, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of

1 ~~his, her, or it's~~ the right to approve or disapprove of the insurance  
 2 company selected by the buyer to underwrite the insurance.

3 (13) Issuing, offering, or participating in a plan to issue or offer,  
 4 any policy or certificate of insurance of any kind or character as  
 5 an inducement to the purchase of any property, real, personal, or  
 6 mixed, or services of any kind, where a charge to the insured is  
 7 not made for and on account of such policy or certificate of  
 8 insurance. However, this subdivision shall not apply to any of the  
 9 following:

10 (A) Insurance issued to credit unions or members of credit  
 11 unions in connection with the purchase of shares in such credit  
 12 unions.

13 (B) Insurance employed as a means of guaranteeing the  
 14 performance of goods and designed to benefit the purchasers  
 15 or users of such goods.

16 (C) Title insurance.

17 (D) Insurance written in connection with an indebtedness and  
 18 intended as a means of repaying such indebtedness in the event  
 19 of the death or disability of the insured.

20 (E) Insurance provided by or through motorists service clubs  
 21 or associations.

22 (F) Insurance that is provided to the purchaser or holder of an  
 23 air transportation ticket and that:

24 (i) insures against death or nonfatal injury that occurs during  
 25 the flight to which the ticket relates;

26 (ii) insures against personal injury or property damage that  
 27 occurs during travel to or from the airport in a common  
 28 carrier immediately before or after the flight;

29 (iii) insures against baggage loss during the flight to which  
 30 the ticket relates; or

31 (iv) insures against a flight cancellation to which the ticket  
 32 relates.

33 (14) Refusing, because of the for-profit status of a hospital or  
 34 medical facility, to make payments otherwise required to be made  
 35 under a contract or policy of insurance for charges incurred by an  
 36 insured in such a for-profit hospital or other for-profit medical  
 37 facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

*(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.*

~~(25)~~ **(26)** *Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.*

~~(25)~~ **(27)** *Violating IC 27-2-21 concerning use of credit information.*

**(28) Violating IC 22-3-4-15 concerning second injury fund assessments.**

SECTION 29. IC 33-13-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.1. "Judge", as defined

in section 2 of this chapter, includes:

- (1) a person who has served or is serving as a regular judge of the Indiana tax court; or
- (2) a person who is appointed after June 30, 2004, and serves as a member of the worker's compensation board established by IC 22-3-1-1.

SECTION 30. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "committee" refers to the worker's compensation board performance evaluation committee established by IC 22-3-1-4, as added by this act.

(b) The governor shall make the initial appointments to the committee not later than July 1, 2004. In making an initial appointments, the governor shall indicate the length of the term for which the individual is appointed.

(c) The initial terms of office for the five (5) individuals appointed to the committee by the governor are as follows:

- (1) Two (2) members for a term of four (4) years.
- (2) One (1) member for a term of three (3) years.
- (3) One (1) member for a term of two (2) years.
- (4) One (1) member for a term of one (1) year.

(d) The initial terms begin July 1, 2004.

(e) This SECTION expires July 1, 2008.

(Reference is to HB 1309 as introduced.)

**and when so amended that said bill do pass.**

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Representative Liggett